LAWS, MEMORIALS AND RESOLUTIONS

OF THE

TERRITORY OF MONTANA,

PASSED AT THE

FIFTH SESSION

OF THE

LEGISLATIVE ASSEMBLY,

BEGUN AT VIRGINIA CITY DECEMBER 7, 1868, AND CONCLUDED JANUARY 15, 1869.

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES,

AND THE ACTS ORGANIZING THE TERRITORY.

PUBLISHED BY AUTHORITY.

HELENA, MONTANA TERRITORY:
MONTANA POST PUBLISHING COMPANY,
GEO. M. PINNEY, PUBLIC PRINTER.
1869.

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AUTHENTICATION.

MONTANA TERRITORY,
Secretary's Office, Virginia City.

I, JAMES TUFTS, Secretary of Montana Territory, do hereby certify that I have delivered to George M. Pinney, Public Printer, true and correct copies of all Laws, Joint Resolutions and Memorials, now on file in my office, and passed at the fifth session of the Legislative Assembly of the Territory of Montana, begun and held at Virginia City, the Capital of said Territory, on the 7th day of December, in the year of our Lord one thousand eight hundred and sixty-eight.

In Testimony Whereof, I have hereunto set my hand and affixed the great seal of the Territory of Montana. Done at Virginia City, this 26th day [L. S.] of January, in the year of our Lord one thousand eight hundred and sixty-nine.

JAMES TUFTS,
Secretary of Montana Territory.

MONTANA POST OFFICE, Montana Territory,
January 26, 1869.

I hereby certify, that the General and Private Laws, Memorials and Joint Resolutions herein contained, are true and correct copies of those delivered to me by the Secretary, as stated in the preceding authentication.

GEORGE M. PINNEY,
Public Printer.

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DECLARATION OF INDEPENDENCE,

IN CONGRESS, JULY 4TH, 1776.

The Unanimous Declaration of the Thirteen United States of America.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires, that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident — that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

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He has refused to assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained, and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature — a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness, his invasions on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the state remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others, to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others, to subject us to a jurisdiction, foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation —

For quartering large bodies of armed troops among us:

For protecting them by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us, without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas, to be tried for pretended offenses:

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For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

For suspending our own legislature, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun, with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrection amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts, by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity; and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connection and correspondence. They, too, have been deaf to the voice of justice, and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these

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colonies, solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain, is, and ought to be, totally dissolved; and that as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members:

JOHN HANCOCK.

New Hampshire.

JOSIAH BARTLETT.
WILLIAM WHIPPLE.
MATTHEW THORNTON.

Massachusetts Bay.

SAMUEL ADAMS.
JOHN ADAMS.
ROBERT TREAT PAINE.
ELBRIDGE GERRY.

Rhode Island, etc.

STEPHEN HOPKINS.
WILLIAM ELLERY.

Connecticut.

ROGER SHERMAN.
SAMUEL HUNTINGTON.
WILLIAM WILLIAMS.
OLIVER WOLCOTT.

New York.

WILLIAM FLOYD.
PHILIP LIVINGSTON.
FRANCIS LEWIS.
LEWIS MORRIS.

New Jersey.

RICHARD STOCKTON.
JOHN WITHERSPOON.
FRANCIS HOPKINSON.
JOHN HEART.
ABRAHAM CLARK.

Maryland.

SAMUEL CHASE.
WILLIAM PACA.
THOMAS STONE.
CHARLES CARROLL, of Carrollton.

Pennsylvania.

ROBERT MORRIS.
BENJAMIN RUSH.
BENJAMIN FRANKLIN.
JOHN MORTON.
GEORGE CLYMER.
JAMES SMITH.
GEORGE TAYLOR.
JAMES WILSON.
GEORGE ROSS.

Delaware.

CÆSAR RODNEY.
GEORGE READ.
THOMAS M'KEAN.

Virginia.

GEORGE WYTHE.
RICHARD HENRY LEE.
THOMAS JEFFERSON.
BENJAMIN HARRISON.
THOMAS NELSON, JR.
FRANCIS LIGHTFOOT LEE.
CARTER BRAXTON.

North Carolina.

WILLIAM HOOPER.
JOSEPH HEWES.
JOHN PENN.

South Carolina.

EDWARD RUTLEDGE.
THOMAS HAYWARD, JR.
THOMAS LYNCH, JR.
ARTHUR MIDDLETON.

Georgia.

BUTTON GWINNETT.
LYMAN HALL.
GEORGE WALTON.

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CONSTITUTION

OF THE

UNITED STATES OF AMERICA.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SEC. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative;

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and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and *Providence plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places and manner of holding elections

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for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. Each house shall be the judge of elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SEC. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections, to that house in

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which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. The congress shall have power—

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

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To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasion;

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

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SEC. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[* The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabtant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this

* Annulled. See 12th Amendment.

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purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear, (*or* affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect and defend the constitution of the United States."

SEC. 2. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public

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ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the congress such information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers, and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more states;—[*between a state and citizens of another state;—] between citizens of different states;—between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme

* Annulled. See 11th Amendment.

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court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

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SEC. 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive, (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same.

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AMENDMENTS

TO THE

CONSTITUTION OF THE UNITED STATES.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the

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militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined by any court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

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ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; — the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; — the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president. The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

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ORGANIC ACT

OF THE

TERRITORY OF MONTANA.

(PUBLIC, No. 76.)

AN ACT to provide a temporary government for the Territory of Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That all that part of the territory of the United States included within the limits, to wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington, with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky mountains; thence following the crest of the Rocky mountains northward till its intersection with the Bitter Root mountains; thence northward along the crest of said Bitter Root mountains to its intersection with the thirty-ninth degree of longitude west from Washington; thence along said thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along said boundary line to the twenty-seventh degree of longi-

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tude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby created into a temporary government by the name of the Territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such time as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Montana, until said tribe shall signify their assent to the president of the United States to be included within said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said territory of Montana, shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory and shall be commander-in-chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offenses against the laws of said territory, and reprieve for offenses against the laws of the United States, until the decision of the president of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein and hold his office for four years unless sooner removed by the president of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each

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session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation or absence of the governor from the territory, the secretary shall be, and he is hereby authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of the said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district, or county, or counties for which they may be elected respectively. Previous to the first election the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said

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representative districts, respectively, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intentions to become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

SEC. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted)

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after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return; in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

SEC. 7. *And be it further enacted*, That all township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for the members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly; or shall hold any office under the government of said territory.

SEC. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of probate courts and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the

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title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the district and circuit courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive, in all such cases, the same fees which the clerks of the district courts of Washington territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the duties,

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be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the present territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the president of the United States, by and with the advice and consent of the senate, a surveyor general of said territory, who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney and marshal, shall be appointed by the president of the United States, by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively, take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars;

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the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each, per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel in going to and returning from said sessions, estimated according to the nearest usually traveled routes; and an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms and doorkeeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor, to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted*, That the legislative assembly of the territory of Montana shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved after due

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notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

SEC. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections the time, and places, and manner of holding elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the constitution and all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Montana territory as elsewhere within the United States.

SEC. 14. *And be it further enacted*, That when the lands in the said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That all officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the territory of Montana, who by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted with them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

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SEC. 17. *And be it further enacted*, That all treaties, laws and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the president of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

SEC. 18. *And be it further enacted*, That, until Congress shall otherwise direct, all that part of the territory of Idaho included within the following boundaries, to wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky mountains; thence northward along the said crest of the Rocky mountains to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirty-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington to the forty-first degree north latitude; thence west along said forty-first degree north latitude to the place of beginning, shall be, and is hereby, incorporated temporarily into, and made part of, the territory of Dakota.

Approved May 26, 1864.

DEPARTMENT OF STATE,
Washington, May 28, 1864.

A true copy:

W. H. HUNTER,
Chief Clerk.

(PUBLIC, No. 65.)

AN ACT amendatory of "An Act to provide a temporary government for the Territory of Montana," approved May 26, 1864.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the legislative assemblies of the several territories of the United States shall not, after

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the passage of this act, grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits.

SEC. 2. *And be it further enacted*, That the probate courts of the territory of Montana, in their respective counties, in addition to their probate jurisdiction, are hereby authorized to hear and determine civil causes wherein the damage or debt claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory as do not require the intervention of a grand jury: *Provided*, That they shall not have jurisdiction in any matter in controversy when the title or right to the peaceable possession of land may be in dispute or chancery, or divorce causes: *And provided further*, That in all cases an appeal may be taken from any order, judgment or decree of said probate court to the district court.

SEC. 3. *And be it further enacted*, That the chief justice and associate justices of said territory and the territory of Idaho shall each receive an annual salary of thirty-five hundred dollars.

SEC. 4. *And be it further enacted*, That the judges of the supreme court of said territory, or a majority of them, shall, when assembled at the seat of government of said territory, define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and shall also fix and appoint the times and places for holding the courts in the several counties or subdivisions in each of said judicial districts, and alter the times and places of holding the courts as to them shall seem proper and convenient, but not less than two terms shall be held at each place of holding court each year.

SEC. 5. *And be it further enacted*, That for the purpose of reviving the legislative functions of the territory of Montana, which have been adjudged therein to have lapsed, the governor of said territory be, and he is hereby, authorized, on or before the first day of July, eighteen hundred and sixty-seven, to divide said territory into legislative districts for the election of members of the council and house of representatives, and to apportion among said districts the number of members of the legislative assembly provided for in the organic act of said territory, and the election of said members of the legislative assembly shall be held at such time and shall be conducted in the manner prescribed by the legislative assembly of said territory at the session thereof, begun and holden at the city of Bannock, in eighteen hundred and sixty-four and eighteen hundred and sixty-five, and the qualifications of voters shall be the same as that prescribed by said organic act, saving and excepting the distinction therein made on account of race or color, and the legislative assembly, so elected, shall convene at the time prescribed by said legislative assembly at the

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session last aforesaid. The apportionment provided for in this section shall be based upon such an enumeration of the qualified electors of the said several legislative districts as shall appear from the election returns in the office of the secretary of said territory, and from such other sources of information as will enable the governor, without taking a new census, to make an apportionment which shall fairly represent the people of the several districts in both houses of the legislative assembly, but the legislature may at any time change the legislative districts of the territory as fixed by the governor.

SEC. 6. *And be it further enacted*, That all acts passed at the two sessions of the so-called legislative assembly of the territory of Montana, held in eighteen hundred and sixty-six, are hereby disapproved and declared null and void, except such acts as the legislative assembly herein authorized to be elected, shall by special act, in each case, re-enact: *Provided, however*, That in all the claims of vested rights thereunder, the party claiming the same shall not, by reason of anything in this section contained, be precluded from making and testing said claim in the courts of said territory: *And provided further*, That no legislation or pretended legislation in said territory since the adjournment of the first legislative assembly shall be deemed valid until the election of the legislative assembly herein provided for shall take place.

SEC. 7. *And be it further enacted*, That from and after the first day of April next, the salary of each of the judges of the several supreme courts in each of the organized territories (except Montana and Idaho) shall be two thousand five hundred dollars.

SEC. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 2, 1867.

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ceived and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each, per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel in going to and returning from said sessions, estimated according to the nearest usually traveled routes: an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative

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assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor, to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted*, That the legislative assembly of the territory of Montana shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved after due notice, at the first general election thereafter, by a majority of ths legal votes cast on that question.

SEC. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from

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LAWS OF MONTANA.

AN ACT providing for the collection of Revenue.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. There shall be levied annually by the board of county commissioners of each county in this territory, and collected by the county treasurer of such counties, an ad valorem tax on each dollar of assessed valuation on all property in this territory, subject to taxation for territorial purposes; on each dollar, four mills, for county purposes; on each dollar, any sum not exceeding ten mills, and for school purposes, not less than one, nor more than three mills; and for the benefit of the poor, not less than one, nor more than five mills; and such levy, when made, shall be entered on the books of said county commissioners.

SEC. 2. Every tax levied under the provisions of this act, is hereby made a lien against any and all of the property assessed, and such lien shall attach at the time of such assessment, and shall not be satisfied or removed until such taxes are paid.

SEC. 3. All property of every kind and nature in this territory, on the first day of January of each year, or which shall arrive in this territory before the last day of December ensuing, shall be subject to taxation, except—

First. All lands and lots of ground, with buildings, improvements and structures thereon belonging to the territory, and all lands and property belonging to the United States, or to this territory, or any municipal corporation, or to any county of the territory.

Second. Court houses, jails, town halls, houses occupied by fire and military companies, and their apparatus, and other public

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structures, and offices, and all squares and lots kept open for health or public uses or for ornament, belonging to any county, city, town or village in this territory, public libraries, colleges, school houses, and other buildings for the purposes of education, with their furniture, libraries, and all other equipments and lots or land thereto appurtenant and used therewith, so long as the same shall be used for that purpose: *Provided*, That when any of the property mentioned in this subdivision is private property, from which a rent or other valuable consideration is received for its uses, the same shall be taxed as other property.

Third. Public asylums, hospitals, poor houses, and other charitable or benevolent institutions for the relief of the indigent or afflicted, and the lots or lands thereto appurtenant, with all their furniture and equipments, all ground and buildings belonging to agricultural societies, so long as the same shall be used for that purpose only, and without pecuniary gain.

Fourth. Churches, chapels, and equipments, and the lots of ground appurtenant thereto and therewith, provided rent is not paid for such ground, so long as the same is used for that purpose only, without yielding rent.

Fifth. The buildings and lots of ground appurtenant thereto, and used therewith, owned and used by the order of Free and Accepted Masons, the Independent Order of Odd Fellows, or by any benevolent or charitable society.

Sixth. Cemeteries and graveyards, set apart and used for interring the dead.

Seventh. The property of widows or orphan children, not to exceed the amount of one thousand dollars to any one family.

Eighth. Growing crops.

Ninth. Mines and mining claims: *Provided*, That all machinery used in mining claims, and all property and improvements appurtenant to or upon mining claims, which have an independent and separate value, shall be subject to taxation. Tools of mechanics, farming, tools of husbandmen, libraries of professional men, and private citizens, household furniture of families or householders, which do not exceed in value, to each of said callings or occupations, the sum of two hundred and fifty dollars.

SEC. 4. All other property, real or personal, within the territory, is subject to taxation in the manner herein directed, and this

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is intended to embrace improvements on land and lots in towns, including land bought from the United States, and from this territory, whether bought on a credit or otherwise, being franchises, which for the purposes of this chapter, are to be considered real property, ditches and flumes, horses, oxen, cows and calves, mules and asses, sheep, swine and goats, money in coin or gold dust, whether in possession or on deposit, and including bank bills, property or labor due from solvent debtors on contract or on judgment, whether in this territory or not, mortgages and other like securities, stock or shares in any bank or company, incorporated or otherwise, and whether incorporated by this or any other territory or state, or whether situated in this territory or not, public stock or lands, honsehold furniture, not otherwise exempt, including gold and silver plate, musical instruments, watches and jewelry, private libraries, those over two hundred and fifty dollars in value, pleasure carriages, stages, hacks, and other vehicles for transporting passengers, wagons, carts, drays, sleds and other descriptions of vehicles or carriages; boats and vessels of every description, wherever registered or licensed, and whether navigating the waters of this territory or not, if owned, either in whole or in part, by persons who are inhabitants of this territory; annuities, but not including pensions from the United States, or any of the states.

SEC. 5. Every inhabitant of this territory, of full age and sound mind, shall list all property subject to taxation in this territory of which he is the owner, or has the control or management, in the manner hereinafter directed; but the property of a minor is to be listed by his guardian, or, if he have no guardian, then by his father, if living, if not, then by his mother, if living, if not, then by the person having the property in charge; if a married woman, by her husband, but if he be unable or refuse, then by herself; of a beneficiary for whom property is held in trust, by the trustee; and if the personal property of a decedent, by the executor; of a body corporate, company, society, or partnership, by its principal accounting officer, agent, or a partner. Property under mortgage or lease is to be listed by and taxed to the mortgagee or lessee, unless it be listed by the mortgagor or lessor, and, in all cases, said property shall be listed in the name of the owner.

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SEC. 6. Commission merchants, and all persons trading and dealing on commission, and consignees authorized to sell, are, for the purposes of taxation, to be deemed owners of the property in their possession.

SEC. 7. All personal property shall be listed, assessed and taxed in the county where the same may be found, unless the owner thereof produces a receipt, showing that he has paid tax on the same in some other county for the same year.

SEC. 8. All persons required to list property in behalf of another, shall list in the same county in which he would be required, if it were his own, except as herein otherwise directed, but he must list it separately from his own, naming the person or estate to whom or to which it belongs, but the undivided property of a person deceased belonging to his heirs, with or without naming the several heirs.

SEC. 9. The property of corporations or companies constructing bridges, canals, ditches, flumes, railways, plank roads, grading roads, turnpiking roads, telegraph lines, and similar improvements, shall be assessed to each corporation or company, and their interests are to be taxed in this territory, in the county or localities in which such bridges, canals, flumes, railways, plank roads, grading roads, turnpike roads, telegraph lines, and similar improvements may be in, and to the extent of such improvements as may be found to be in the county or counties in which the same may be situated, and to this end the assessor is directed to require the secretary or [to] clerk, or whatever officer of corresponding duties there may be, to render, under oath, a list of the number of miles and value of such improvements as may be, in each separate county through which the same may be constructed, or in which the same may be situated.

SEC. 10. All taxable property is to be listed and valued each year, and shall be assessed at its true value in money at private sale, having regard to its quality, locality, natural advantages, the general improvement in the vicinity, and all other elements of its value.

SEC. 11. Depreciated bank notes or stock, or shares in corporations or companies, may be listed at their current value. Credits shall be listed at such sum as the person listing them believes he will receive or can collect, and annuities at such sum as the person listing believes them to be worth in money.

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SEC. 12. The term credit, includes every claim or demand for money, labor, or other valuable thing, and every annuity or sum of money receivable at stated periods, and all money in property of any kind, except pensions from the United States or any of the states.

THE DUTIES OF ASSESSOR.

SEC. 13. The assessor of each county shall assess and value all property required by this act to be assessed and valued, and between the first day of March and the tenth day of July, in each year, shall demand of each tax payer in his county, a list, as hereinafter provided, of his, her or their property; and if the said list be not rendered under oath at the time such demand be made, the assessor shall proceed to list and assess the property of such tax payer according to his best knowledge and information, and shall add twenty-five per cent. to the value thereof: *Provided*, That upon all personal property, when the owner has not sufficient real property which is not exempt from taxation to pay the taxes which would be levied against the personal property of such owner, the assessor shall report his assessment forthwith to the treasurer of the county, and if there be danger that any of such property will be removed from the county, the assessor shall have power, and it shall be his duty to seize a sufficient amount of property to pay the taxes and cost; he shall forthwith report such seizure to the treasurer of the county, who shall hold the property seized, until such taxes are paid. It shall be the duty of the county treasurer, immediately on the receipt of the assessment against any personal property mentioned in this section, to levy the tax therein, and if the tax levied be not paid within ten days from the time the assessment was made, he shall proceed to sell the property seized by the assessor, and shall seize and sell other personal property on which taxes have been levied by the provisions of this section, and shall sell the same in the manner provided for the sale of personal property for taxes.

SEC. 14. It shall be the duty of the assessor to proceed to assess all property that may come into his county, or which he may have failed to assess at any time during the year, after he shall have received from the commissioners the blanks as required in section twenty of this act.

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SEC. 15. The list shall contain: First. His, her, or their lands, to be designated by township, range, section, and any division or part of section; and where such part is not a government division or subdivision, then some other description to identify it; and his town lots, naming the town in which they are situated, and their proper description by number and blocks or otherwise, according to the system of numbering in the town. Second. His personal property employed in merchandise, amount of capital employed in manufactures, number of horses, number of mules and asses, number of sheep, number of oxen, number of cows and calves, number of swine, number of goats, number of carriages of every description, amount of money and credits, number of clocks and watches, number of pieces of jewelry and gold and silver plate, number and kind of musical instruments, amount of taxable household furniture, amount in stocks or shares in any corporation or company, and amount of all other property not enumerated.

SEC. 16. The list shall be signed and sworn to by the persons making it, and the oath shall be administered either by the assessor or his deputy, or by any other officer authorized to administer oaths, and shall be certified by him, and the oath may be printed upon the blank forms, and shall be in substance as follows:

"TERRITORY OF MONTANA, } ss.
County of ——. }

I, A. B., do solemnly swear that I have listed in the within list, all moneys, goods, credits, and all other description of property owned or held by me as principal, partner or agent, according to the best of my knowledge. So help me God.

(Signed) A. B."

SEC. 17. On or before the tenth of July, annually, the assessor shall make out and deliver to the county clerk an assessment roll, containing, in a tabular form, and alphabetical order, the names of the persons and bodies in whose names property has been listed in his county, with the several species of property, and the value as hereinbefore indicated, with the column of numbers and value footed; and in a column to be provided for that purpose, he shall write the words, "by the assessor," when the list was made by himself, together with the words "absent or

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sick," or the words "refused to list," or "refused to swear," or such other words as will express the cause why the person required to make the list did not make it, and neglect shall be taken as a refusal.

SEC. 18. The assessor shall take and subscribe an oath, to be certified by the officer administering it, and attached to the assessment roll, which oath is to be in substance as follows:

"I, C. D., Assessor of ——, of —— county, do solemnly swear, that the value of all property, money and credits, of which a statement has been made, and verified by the oath of the person required to list the same, is herein truly returned as set forth in such statement; that in every case where I have been required to ascertain the amount or value of the property of any person or body, I have diligently, and by the best means in my power, endeavored to ascertain the true amount and value, and that, as I verily believe, the full value thereof is set forth in the annexed, and that in no case have I knowingly omitted to demand of any person of whom I was required by law to list, nor in any way connived at any violation or evasion of any of the requirements of the law in relation to the assessment of property for taxation. So help me God."

SEC. 19. Such assessor shall receive, from said county, a per centage of the assessed valuation returned by him, subject to such reduction as may be made by the board of equalization, of not less than three-fourths of one mill on the dollar, nor more than two mills on the dollar, as said board of county commissioners may deem right and just; and it shall be the duty of the board of commissioners to provide for the payment of such sum as may be allowed said assessor, in money out of the contingent fund of said county: *Provided*, That the county commissioners of Choteau county may, at their discretion, allow a sum not to exceed the sum of three mills.

DUTIES OF COUNTY COMMISSIONERS.

SEC. 20. On or before the first day of March in each year, the county commissioners shall provide the assessor with suitable blank forms for assessments and such instructions as to insure full and uniform assessments and returns.

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SEC. 21. On the first Monday in February, the board of county commissioners shall levy the requisite taxes for the current year.

SEC. 22. The county commissioners shall constitute a board for the correction of the assessment roll, and on the third Monday in July, and at any time thereafter when it may become necessary, who shall meet at the county clerk's office, at the county seat, and sufficient public notice shall be given, by the county clerk, of the time and place of the meeting of such board of correction, and any person feeling aggrieved by anything in the assessment roll, may apply to the board for the correction of any supposed error, and if, in the opinion of said board, any assessments are too low, they shall have power to increase such assessments, but shall notify the party or parties of their intention to increase such assessment, and if any person, returned as refusing to render a list, or to be sworn thereto, can show good cause, the penalty herein provided may be remitted.

SEC. 23. In addition to the tax required to be levied by the provisions of this act, there shall be levied by the board of county commissioners of each county, at the same time the ad valorem tax is levied by them, a tax of two dollars upon each male inhabitant of this territory, over the age of twenty-one years. Such tax shall be denominated a poor tax, and it shall be the duty of the treasurer of each county to collect the same in money, and in the manner as provided for in this act for the collection of taxes, which said tax shall be set apart by the board of county commissioners as a fund, exclusively for the support and maintenance of the poor of each county; and the said treasurer shall be allowed twenty per cent. on all such moneys, in case he shall faithfully perform his duties in collecting said tax from each and every inhabitant as herein prescribed.

DUTIES OF COUNTY CLERKS.

SEC. 24. As soon as possible, after the taxes are levied, the clerk shall make out a tax list in tabular form and in alphabetical order, which tax list shall be made within twenty days after the returns of the assessor having [in] a distinct column by itself, the amount of each different tax, and having one or more columns for all delinquent taxes, but instead of a column for the amount

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of personal property, the word "personalty" may be written across the column after the name and amount carried into the column of value. Such list may be in the following form:

Names of Owners.	Part of section.	Section.	Township.	Range.	Acres.	Name of Town.	Lots.	Block.	Value.	County Tax.	Territorial Tax.	School Tax.	Road Tax.

SEC. 25. An entry is required to be made upon the tax list showing what it is, and for what county, and the year it is, and the county clerk shall attach to the list his warrant under his hand and official seal, in general terms, requiring the treasurer to collect the tax therein levied, according to law, and no informality in the above requirements shall render any proceedings for the collection of taxes illegal, and such list shall be full and sufficient authority for the treasurer to collect all taxes contained therein.

SEC. 26. Immediately after the assessment roll is corrected, the county clerk shall make out an abstract thereof, containing the whole amount of each species of property, and the value of the same, together with the total valuation of all property assessed, which abstract said clerk shall transmit forthwith to the auditor of the territory.

SEC. 27. If on the assessment roll, or on the tax list, there be an error in the name of a person taxed, the name may be changed, and the tax collected from the person intended, if he be taxable, and can be identified by the treasurer or assessor.

DUTIES OF TREASURER.

SEC. 28. No demand of taxes shall be necessary except as provided in section thirty-one of this act, but it shall be the duty of every person owing tax, to pay the same to the treasurer of

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the county, at the time and place fixed by the treasurer; and if any such tax payer shall fail or refuse to pay the tax assessed against him on or before the first day of November following the levy thereof, twenty per cent. of such tax shall be added thereto, and collected as a portion of such tax; and it shall be the duty of the collector, immediately after said first day of November, to seize any personal property belonging to, or which may have been assessed to any tax payer who shall then be delinquent, and sell the same as provided in section forty-eight of this act: *Provided*, That nothing herein shall be so construed as to prohibit the collector from seizing and selling personal property at any time before the first day of November, but it shall be his duty at any time when there shall appear to be danger of the removal of property on which taxes are unpaid, from the county, to seize and sell a sufficient amount of the same to satisfy the taxes thereon, together with the costs of seizure and sale.

SEC. 29. If any tax payer, against whom tax may be levied, shall remove his property from the county where such tax was levied, the treasurer of such county shall sue for and collect such tax in the name of the county, in the manner as provided for the collection of debts.

SEC. 30. In case where sufficient personal property, liable to seizure, cannot be found to pay the tax assessed against any person or company, the treasurer may sue for and collect such tax by attachment, garnishment or otherwise.

SEC. 31. The county treasurer shall, by printed or written handbills posted in each township in his county, notify the tax payers thereof, that he will be at some point in said township, not less than one nor more than three days, to receive the taxes due the county. Said county treasurer shall visit such township prior to the first day of October of each year.

SEC. 32. On or before the first Monday of January in each year, the treasurer is directed to offer at public sale, at the court house in his county, all lands on which the taxes levied the preceding or any previous year still remain unpaid, but such sale shall not be void if not made till after the day named.

SEC. 33. The treasurer shall give notice of the sale of real property by publication thereof, once a week, for four weeks, in a newspaper in his county, if there be one of weekly issue, the

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first of which shall be, at least, four weeks before the sale, and by a written notice posted on the door of the court house, or building commonly used therefor, for four weeks before the sale; and if there be no such newspaper published in the county, the like notice shall be given by posting one written notice the above length of time, in some public place in each township or precinct in which any land to be sold is situated, and one on the court house door. Such notice shall contain a notification that all lands on which the taxes of the preceding year or years (naming it) have not been paid will be sold, and the time and place thereof, with a list of the lands. Ten per cent. upon the amount of the taxes due shall be added when the lands are advertised.

SEC. 34. Such sale is directed to take place between the hours of nine o'clock in the forenoon, and five o'clock in the afternoon and be adjourned from day to day, Sundays excepted, until all the lands are sold.

SEC. 35. At the February session of the board of county commissioners, the treasurer is required to file in the county clerk's office, a return of his sale of lands, retaining a copy in his office, showing the land sold, the names of the owners so far as known, the names of the purchasers, and the sums paid by them, and also a copy of the notice of the sale, with a certificate of the service, verified by an affidavit, and such certificate shall be evidence.

SEC. 36. The person who offers to pay the amount due on any parcel of land, for the smallest portion of the same, is to be considered the highest bidder, and when such portion constitutes one-half or more of the parcel, it is to be taken from the east side thereof, dividing it by a line running north and south, except that town lots are to be divided in each case lengthwise, by a line parallel with the proper lines of lots; if the portion be less than one-half, the tract is to be taken from the south-east corner in a square form, as nearly as the form of the land will conveniently permit. The preceding provisions of this section are subject to the following qualifications: The homestead is liable to be sold for no tax, save that which is due on the same exclusively, and the above directions concerning the divisions of a tract of land shall be modified so as to meet this requirement, and to that end the quantity of land bid for may be obtained by drawing a divi-

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sion in any direction or form, so as to avoid the homestead, and when the homestead constitutes a part of the tract sold, and is not yet ascertained, the court may, in the action hereafter authorized, at the suggestion of either party, cause a proceeding to be had, similar to that required to a mechanics' lien. For the ascertainment of the homestead, and in all other cases of such sales, it may take the requisite order and proceedings to ascertain the land sold, and set it apart from the homestead.

SEC. 37. Should any person so bidding fail to pay the amount due, the treasurer may again offer the land for sale; if it has closed, he may again advertise it specifically, and by description, by one written notice posted for two weeks in the civil township in which the land lies, and one such notice on the court house, or the treasurer may recover the amount bid by civil action, brought in the name of the county, in the township or precinct where the county seat is situated.

SEC. 38. The county treasurer shall make out, sign and deliver to the purchaser of any real property sold for the payment of taxes as aforesaid, a certificate of purchase, describing the property on which the taxes and costs were paid by the purchaser, as the same was described in record of sales, and also how much and what part of each tract or lot was sold, and stating the amount of each kind of tax, interest and cost for each tract or lot for which the same was sold, as described in record of sales, and that payment has been made therefor. If any purchaser shall become the purchaser of more than one parcel of property, he may have the whole included in one certificate. For each certificate so delivered, the purchaser shall pay a fee of one dollar to the county treasurer.

SEC. 39. Such certificate of purchase shall be assignable by indorsement, and on assignment thereof, shall vest in the assignee or his legal representatives, all right and title of the original purchaser.

SEC. 40. Real property sold under the provisions of this act, may be redeemed at any time before the expiration of one year from the date of the sale, by the payment to the treasurer of the proper county, to be held by him subject to the order of the purchaser, of the amount for which the same was sold, and sixty per cent. interest per annum on such subsequent taxes, unless such

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subsequent taxes have been paid by the person for whose benefit the redemption is made, which fact may be shown by the treasurer's receipt: *Provided*, That if real property of any minor, married woman, or lunatic, be sold for taxes, the same may be redeemed at any time within one year after such disability is removed, by the guardian or legal representatives.

SEC. 41. The county treasurer shall, upon application of any party to redeem any real property, sold under the provisions of this act, and being satisfied that such party has the right to redeem the same, and upon the payment of the proper amount, issue to such party a certificate of redemption, setting forth the facts of the sale, substantially, as contained in certificate of sale, the date of redemption, the amount paid, and by whom redeemed; and he shall make the proper entries in the book of sales in his office, and shall receive two dollars for such services.

SEC. 42. Immediately after the expiration of the time allowed for the redemption of any land sold for taxes under the provisions of this act, the treasurer then in office shall make out a deed for each lot or parcel of land, sold and remaining unredeemed, and deliver the same to the purchaser upon the return of the certificate of purchase. The county treasurer is required to demand five dollars for each deed made by him on such sale, but any number of parcels of land, bought by one person, may be included in one deed, as may be desired by the purchaser.

SEC. 43. Deeds executed by the treasurer shall be substantially in the following form:

"*Know all Men by these Presents*, That whereas the following described real property, to wit: (*here follows the description*) situated in the county of ——, and territory of Montana, was subject to taxation for the years A.D. ——; and whereas, the taxes assessed upon said real property for the year or years aforesaid, remained due and unpaid at the date of the sale hereinafter named; and whereas, the treasurer of said county did, on the —— day of ——, A. D. 18—, expose at public sale, at the court house, in the county aforesaid, in substantial conformity with all the requisitions of the statute in such case made and provided, the real property above described, for the payment of the taxes, interest and cost then due and remaining unpaid on said property; and whereas, at the time and

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place aforesaid, A. B., of the county of ——, and ——, of ——, having offered to pay the sum of —— dollars and —— cents, being the whole amount of taxes unpaid on said property (*here follows a description of the property sold*), which was the least quantity bid for, and payment of such sum having been made by him to the said treasurer, the said property was stricken off to him at that price; and whereas, the said A. B. did, on the —— day of ——, A.D. 18—, duly assign the certificate of the sale of the property, as aforesaid, and all his right, title and interest to said property, to E. F., of the county of——, and —— of ——; and whereas, the time of redemption having elapsed since the date of said sale, and the said property has not been redeemed therefrom as provided by law. Now, therefore, I, C. D., —— of the county aforesaid, for and in consideration of the sum, to the —— paid, as aforesaid, and by virtue of the statute in such case made and provided, have bargained and sold, and by these presents do grant, bargain and sell unto the said A. B., his heirs and assigns, the real property last herein described. To have and to hold unto him the said A. B., his heirs and assigns forever, subject, however, to all the rights of redemption provided by law.

"In Witness Whereof, I, C. D., —— as aforesaid, by virtue of authority aforesaid, have hereunto subscribed my name, on this —— day of ——, A.D. 18—. C. D.

"TERRITORY OF MONTANA, } ss.
—— *County.* }

I hereby certify, that before me, —— in and for said county, personally appeared the above named C. D., —— of said county, at the date of the execution of the above conveyance, and to me known to be the identical person whose name is affixed to, and who executed the above conveyance, as treasurer of said county, and acknowledged the execution of the same to be his voluntary act and deed as —— of said county, for the purposes therein expressed.

"Given under my hand and seal, this—— day of ——, A.D. 18—."

SEC. 44. When by the mistake or the wrongful act of the county treasurer, land has been sold, the county is to hold the purchaser harmless by paying him the amount of principal and interest to which he would have been entitled had the land been

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rightfully sold; and the treasurer and his sureties will be liable for the amount, to the county, on his bond, or the purchaser may recover directly from the treasurer.

SEC. 45. Each county treasurer shall, at the expiration of every three months, render an account of and cause to be paid over to the territorial treasurer, the amount of all moneys collected for territorial purposes, and shall complete the collection of all lists delivered to him, and at the expiration of each fiscal year, shall report in person, and make final settlement, and pay over to the territorial treasurer the balance of all moneys collected by him for territorial purposes, for which final report he shall be allowed mileage.

SEC. 46. If any county treasurer shall fail to collect or render his account, as provided in the foregoing section, it shall be the duty of the territorial treasurer, and he is hereby authorized and required, to commence proceedings for a forfeiture of his bond, and if such treasurer should fail or refuse to so prosecute them, any tax payer in the territory may commence such prosecution. That the first day of November, of each year, shall be the end of the fiscal year for county purposes, and the county treasurer shall, before retiring from office, settle in full with the county commissioners, and the territorial auditor and treasurer.

SEC. 47. The county treasurer of each county in this territory shall be, by virtue of his office, collector of taxes therein, and shall perform such other duties in that regard as are prescribed by law.

SEC. 48. The treasurer shall sell any and all personal property, or so much thereof as may be necessary, that may be seized by him for the non-payment of taxes, at public sale, conducted openly, and shall be sold after notice, published as required by law for the sale of personal property under execution. Such notice shall be given not less than five nor more than ten days.

SEC. 49. The act entitled "An Act for the collection of revenue," approved February 6, 1865, and all acts or parts of acts conflicting with this act, shall be and the same are hereby repealed.

SEC. 50. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT concerning Licenses.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. There shall be levied and collected by the tax collector, a license tax as follows: *first*, from each billiard table kept for public use, sixteen dollars per quarter; *second*, from the manager or lessee of every theatre, five dollars per day, or thirty dollars per month, and for each exhibition of serenaders, opera or concert singers, minstrels, sleight-of-hand performances, leger-demain, and all other shows or exhibitions, the same as required for theatrical performances; *third*, all dance houses or hurdy-gurdy houses shall pay a license of five dollars per day, or fifty dollars per month; *fourth*, for each and every insurance company, agent or agencies transacting business in this territory, the sum of eighty dollars per year; *fifth*, each pawnbroker, twenty-five dollars per quarter; *sixth*, for each keeper of an intelligence office, ten dollars per quarter; *seventh*, from each assayer, fifteen dollars per quarter: *Provided*, They shall work for a compensation. Each professional man, before practicing as such, all lawyers, dentists, physicians, surgeons, and all other professions, shall pay a license of sixteen dollars per annum: *Provided*, That all persons who draw any legal instrument, deed, power of attorney or other documents, for which he charges a fee, shall be considered a professional man

SEC. 2. All keepers of livery and feed stables shall pay a license of fifteen dollars per quarter; all keepers of hay yards, corrals for feeding stock, or selling hay, shall pay a license of eight dollars per quarter, and all herders who keep or herd stock for hire, shall pay a license of ten dollars per quarter; ranchmen, whose receipts for herding stock exceed twenty dollars per month, shall pay the same license as herders. All keepers of liveries, who keep buggies, carriages, sleighs, and other vehicles, shall pay a license of two dollars and fifty cents for each and every vehicle per quarter, in addition to the fifteen dollars above provided.

SEC. 3. Each person keeping a bakery or confectionery shall pay a license of five dollars per month: *Provided*, Their business does not exceed five hundred per month; but all whose business does exceed five hundred dollars per month, shall pay a license of ten dollars per month. All barbers shall pay a license

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of fifteen dollars per quarter: *Provided*, That any barber or barbers who keep more than two barber chairs, shall pay a license of twenty-five dollars per quarter.

SEC. 4. Licenses shall be obtained by the persons, private associations, incorporations, or bankers, doing business in this territory, or engaged in any one or more of the following occupations, to wit: In buying or selling foreign or inland bills of exchange, or in loaning money at interest, or in buying notes, bonds, or other indebtedness of private persons or territorial or county or city stocks or indebtedness, or stocks of incorporated companies, or in buying or selling gold dust, or gold or silver bullion, or gold or silver coin, keepers of savings banks, or engaged as common carriers, in transmitting or carrying gold dust, or gold or silver coin or bullion, from one place to another, for hire or profit, or engaged in receiving general or special deposits of gold dust or silver coin or bullion, including all brokers, shall be divided into four classes as follows: *first*, those doing business in the aggregate to the amount of fifty thousand dollars per quarter, shall constitute the first class, and shall pay a license of one hundred dollars per quarter; all whose business is under fifty thousand dollars per quarter, shall pay a license of fifty dollars per quarter; said amount to be paid to the collector of taxes in the county in which the party applying therefor desires to or does transact any or all of the occupations specified in this section, and a separate license shall be obtained for each branch or separate house of business in the same county: *Provided*, That all persons buying gold dust, gold and silver bullion, gold and silver coin, shall procure a license as above mentioned for that specific business.

SEC. 5. Every person who has a fixed place of business, who may deal in goods, wares or merchandise, wines or liquors, drugs or medicines, jewelry or wares of precious metals, or who shall expose the same for sale, shall pay a license as follows: Those whose sales are ten thousand dollars or more per month, shall constitute the first class, and shall pay a license of fifty dollars per quarter; those whose sales are five thousand and under ten thousand per month shall constitute the second class, and shall pay a license of thirty dollars per quarter; those whose sales are two thousand and under five thousand dollars per month shall constitute the third class, and pay a license of twenty dollars per quar-

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ter; those whose sales are under two thousand dollars per month, shall constitute the fourth class, and pay a license of ten dollars per quarter: *Provided*, That the sales of liquors or wines licensed under this section, shall not be in less quantities than one gallon, unless the person or persons making such sales shall, in addition to the license provided for in this section, pay a license of ten dollars per quarter: *And provided further*, That no license shall be issued under the provisions of this act for less than three months.

SEC. 6. All auctioneers shall procure a license, and shall pay therefor the sum of twenty dollars per month, and all auctioneers who shall sell upon the streets of any town in this territory, horses, mules, cattle, or other live stock, shall pay a license of fifty dollars per month: *Provided*, No license shall be required for sale of goods on execution, or sheriff's sale under attachment or order of any court.

SEC. 7. All keepers of restaurants and boarding houses shall pay a license of fifteen dollars per quarter; all keepers of lodging houses shall pay a license of ten dollars per quarter; all keepers of hotels shall pay a license of twenty-five dollars per quarter: *Provided*, That any person carrying on the hotel business more than two miles from any city, town or village, or in any city, town or village containing less than one hundred inhabitants, shall pay a license tax of five dollars per quarter.

SEC. 8. All persons who dispose of any spirituous or malt liquors in quantities of less than one gallon, shall, before the transacting of such business, obtain a license, for which he or they shall pay as follows: In any city, town or village that contains a population of three hundred persons or more, the license shall be thirty dollars per quarter; in any city, town or village where the population is less than three hundred, and more than fifty, the license shall be fifteen dollars per quarter; and all persons who dispose of any spirituous or malt liquors in quantities of less than one gallon, outside of any town, city or village, and no nearer than three miles to any town, city or village, shall pay a license of eight dollars per quarter.

SEC. 9. Every traveling merchant, hawker or peddler who shall carry a pack or a trunk, and shall sell goods, wares or merchandise, shall pay a license of five dollars per month: *Provided*, That every peddler or hawker, traveling with a wagon or wagons,

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pack animal or pack animals, not dealing in products of this territory, shall pay a license as follows: For the first wagon, fifteen dollars per month, and for every additional wagon, ten dollars per month; for the first pack animal, ten dollars per month, and for each additional pack animal, five dollars per month.

SEC. 10. Any person or persons who shall bring into this territory one or more wagons, or one or more pack animals, loaded with goods, wares, merchandise or provisions, shall pay a license for each wagon, five dollars, for each pack animal fifty cents: *Provided*, That in all cases where such wagon or pack animal is subject to an ad valorem tax, according to the provisions of the revenue act of this territory, they shall not be liable for such license.

SEC. 11. Any person or persons bringing goods, wares, merchandise or provisions into this territory, having no fixed place of business therein, and shall sell, offer for sale on commission or otherwise, shall be deemed, for the purposes of this act, a transient merchant, and shall pay a license tax of one-quarter of one per cent. on the value of such goods, wares, merchandise or provisions.

SEC. 12. Any person or persons bringing, or procuring to be brought into this territory, any drove or droves of cattle, horses, mules, asses, sheep or swine, shall pay a license tax as follows: For each head of cattle, horses, mules or asses, one dollar; for each head of swine, twenty-five cents; for each head of sheep, twenty-five cents. Such license shall be collected in the county where such stock is found, and every person who shall deal in the same within this territory, shall pay a license of twenty dollars per quarter: *Provided*, Any person raising stock in this territory shall not be required to pay a license for selling the same.

SEC. 13. If any person or persons who, under the provisions of sections eleven and twelve of this act, is required to pay a license tax, mentioned therein, shall, without first having procured and paid license, sell any goods, wares or merchandise, or stock, mentioned in either of such sections, the person or persons purchasing shall be responsible for the license tax thereon, and shall pay the same to the tax collector of the county in which such transaction was made, upon the demand of such tax collector; and if such person or persons fail or refuse to pay the same, then such tax collector shall levy upon and sell sufficient of such

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goods, wares, merchandise or stock, to pay such license, together with costs, such seizure and sales to be made in the manner prescribed by law for the collection of delinquent taxes: *Provided*, That if any person or persons having the custody of goods or stocks liable to levy and sale, under the provisions of this act, shall pay the license tax due from the owners of such goods or stocks, then he or they shall have lien upon such property, for the amount of such license, the tax so paid, together with reasonable compensation for trouble incurred in the premises, and may retain such amount out of any moneys that may be or may come into his hands, belonging to such person or persons for whom such license tax was paid.

SEC. 14. Every brewer or manufacturer of malt or spirituous liquors, or manufacturers of pop, beer, or drinks of any kind, put up in bottles, shall pay a license as follows: Those whose business amounts to one thousand dollars or over per month, shall constitute the first class, and shall pay a license of twenty dollars per month; and those whose business is under one thousand dollars per month, shall constitute the second class, and pay a license of five dollars per month.

SEC. 15. Any person or persons who shall keep any banking game, or other game of chance, or gaming table, wherein any money, or representatives of money, are used, bet or ventured at any game of chance or hazard, and not prohibited by the laws of this territory, shall pay a license of fifty dollars per month for each house so kept.

SEC. 16. Every butcher shall pay a license of seven dollars per month: *Provided*, That any butcher carrying on business more than two miles from any city, town or village, or in any city, town or village containing less than one hundred inhabitants, and whose monthly receipts are less than one thousand dollars, shall pay a license tax of ten dollars per quarter.

SEC. 17. Every keeper of a picture gallery, daguerreotypist, photographist, or other artist, shall pay a license of ten dollars per quarter.

SEC. 18. All incorporated roads, bridges or ferries, or water companies, or any other incorporated company not specified in the provisions of this bill, or any other company or association, or persons taking or receiving toll, whose quarterly receipts reach the

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sum of five hundred dollars, shall pay a license tax of twenty dollars per quarter. Those whose quarterly receipts shall not exceed five hundred dollars, shall pay a license tax of ten dollars per quarter. Those whose quarterly receipts shall reach one thousand dollars, shall pay a license tax of forty dollars per quarter. Those whose quarterly receipts shall reach two thousand dollars, shall pay a license tax of eighty dollars per quarter. Those whose quarterly receipts shall reach five thousand dollars per quarter, shall pay a license tax of two hundred and fifty dollars per quarter. And those whose quarterly receipts reach ten thousand dollars, shall pay a license tax of five hundred dollars per quarter.

SEC. 19. *Be it further enacted*, That it shall be the duty of any corporate or other company receiving toll, to cause any president, secretary, chief officer or directors of said company or companies, four times in each year, to file with the treasurer of the county in which said company is located, doing business, or in which they have their office, a sworn statement of all their receipts and expenditures, and it shall be the duty of said treasurer to examine said report, and he shall have power to hear testimony for and against the same, and if he approve of the same, he shall proceed to collect the tax imposed by this act upon said company or corporation, as provided by law in other cases: *Provided*, This only refers to carrying out section eighteen of this act.

SEC. 20. That all male persons in this territory, who are now, or who may hereafter be engaged in the laundry business, shall pay a license of fifteen dollars per quarter.

SEC. 21. Any person or company who shall bring and discharge from any steamer or other water craft a cargo of goods, wares or merchandise, in any port or landing in this territory, whose register tonnage shall be one hundred and fifty tons and under, shall pay a license of thirty dollars for each cargo so discharged; and those whose register tonnage shall be one hundred and fifty tons, shall pay a license of forty dollars for each cargo so discharged; and those whose register tonnage shall be two hundred tons and over, shall pay a license of fifty dollars for each cargo so discharged: *Provided*, That all steamers on the Pen D'Oreille or Flat Head river, and all steamers freighting from and to ports in this territory, shall pay a license of five dollars on each cargo so discharged.

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SEC. 22. That for the purpose of preventing the evasion of the license required to be collected by the provisions of this act, all billiard tables, bar fixtures and furniture, belonging to or in use for carrying on the business of any billiard hall, drinking saloon, restaurant or eating house, are held liable for the amount due for the licenses and taxes assessed on the same; and it is hereby expressly provided, that upon the failure of any one keeping any such establishment, or exercising ownership thereon, to pay the license of the same in manner and form provided by law, the treasurer of the county where such establishment may be located, or any properly authorized officer whose duty it shall be to enforce the collection of any such license, may seize any such tables, bar fixtures, and such appurtenances, and shall proceed to sell, as upon executions at law, any such article, or so much thereof as may be required for the payment of such tax or license as may be due and owing on account of same.

SEC. 23. Every person who shall carry on the lottery or gift or prize distribution business, within this territory, shall pay a license of fifty dollars per quarter; and every person who shall offer for public raffle, any species of property in this territory, shall pay a license tax for each particular species of property so offered, the sum of ten dollars.

SEC. 24. All keepers of mineral, hot or warm springs, when the same are used for bathing purposes, shall pay a license of ten dollars per month, and all keepers of bath houses, or bathing establishments other than springs, shall pay a license of ten dollars per quarter.

SEC. 25. That any company having a line or lines of telegraph in the territory, shall pay a license as follows: On every business office kept in any city, town or village, containing a population of three hundred persons and over, shall pay a license of ten dollars per month. All other telegraph offices kept on roads or stations, where general business is transacted, shall pay a license of five dollars per month, said license to be procured in the counties where the said offices are established.

SEC. 26. Any person or persons who shall transact any business, trade, or occupation, or profession, for which a license is required by this act, without first obtaining the same, shall be deemed guilty of a misdemeanor, and upon conviction before any court

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having competent jurisdiction, be fined in any sum not less than ten dollars, nor more than one hundred dollars, and stand committed until such fine shall be satisfied, and like proceedings shall be had thereon in cases of misdemeanor as prescribed by law.

SEC. 27. This act to take effect and be in full force from and after its passage.

Approved January 15, 1869.

AN ACT to amend an Act entitled "An Act to regulate Proceedings in Civil Cases in Courts of Justice of Montana Territory," approved December 23, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section eighteen, of the act to which this is amendatory, be amended by adding the following to said section: "*Provided, also*, That all actions, both real and personal, arising under the provisions of said eighteenth section, in any county which may be attached to another county for judicial purposes, shall be commenced and tried in the county to which said county may be attached: *Provided, further*, The same be not within the jurisdiction of the probate court of said county, so attached for judicial purposes."

SEC. 2. That section twenty of said act be amended by inserting the following words: "or where the plaintiff resides, and the defendant or any of them may be found," between the words "action" and "or," as found in the published acts of the territory of Montana, passed at the fourth session, and in the third line of said section.

SEC. 3. That section thirty of said act be amended by adding the following to said section: "*Provided*, That in the absence of the judge of the district court from the county, it shall be the duty of the clerk of said court to receive the affidavit prescribed in said section, and he shall then have power and it shall be his duty to make the order of publication, which shall have the same force and effect as if made by the judge of said court."

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SEC. 4. That section thirty-one of said act be amended by striking out the words "three months," where they occur in the sixth line, as found in said printed acts of 1867, in said section thirty-one, and insert, instead thereof, "four weeks." Also, amend said section by striking out the word "at," where it occurs in said section, as printed in the fourteenth line, and insert, in lieu thereof, the words "sixty days after." Also, amend said section, by striking out all of said section in relation to the appointment of an attorney by the court for a non-resident defendant.

SEC. 5. That section forty-two of said act be amended by adding the following to said section: "*Provided*, That a demurrer and answer shall in no case be filed at the same time to the same cause of action, but demurrers must be disposed of before any other pleading to the same cause of action shall be filed."

SEC. 6. That section forty-six of said act be and the same is hereby repealed.

SEC. 7. That the answer of the defendant shall contain a specific denial to each allegation in the complaint, intended to be controverted by the defendant, and may contain a statement of any matter in avoidance, or a counter-claim, a set-off as defense to any of the allegations in the plaintiff's complaint.

SEC. 8. That section fifty-five of said act be and the same is hereby repealed.

SEC. 9. That in all cases of the verification, the affidavit of a party, his agent or attorney, shall state that he has reason to believe, and does believe, that the matters as stated in the pleadings are true.

SEC. 10. That sections one hundred and twenty, one hundred and twenty-one, and one hundred and twenty-two, of said act, be and the same are hereby repealed.

SEC. 11. That the plaintiff or plaintiffs, at the time of issuing the summons, or at any time afterwards, may have the property of the defendant, not exempt from execution, attached as security for the satisfaction of any judgment that may be recovered in said action, unless the defendant give good and sufficient security to secure the payment of said judgment: *Provided*, That no writ of attachment shall be issued until the plaintiff, his agent or attorney, shall file with the clerk an affidavit, showing that the defendant

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is indebted to the plaintiff upon a contract, express or implied, for the payment of money, gold dust or other property, then due, which is not secured by a mortgage lien, or pledge upon real or personal property, stating the amount of such indebtedness, (as near as may be.)

SEC. 12. That before issuing the writ of attachment, the clerk shall require a written undertaking upon the part of the plaintiff, to be filed, in a sum not less than double the amount claimed by the plaintiff, with sufficient sureties, (who shall be resident freeholders or householders in the county where the action is commenced,) to the effect that if the defendant recover judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not to exceed the sum specified in the undertaking, which undertaking shall be approved by the clerk. Said sureties may be required to justify before the clerk, to the effect that each for himself is worth the amount specified in the undertaking, over and above his debts and liabilities, in property exempt from execution, in the county where the action is commenced.

SEC. 13. That actions may be commenced and writs of attachment issued upon any debt for the payment of money, or specific property, before the same shall have become due, when it shall appear by the affidavit, in addition to what is required in section ten of this act: First, that the defendant is leaving or is about to leave this territory, taking with him or her, property, moneys or other effects, that might be subject to the payment of the debt; second, that the defendant is disposing of his property, or is about to dispose of his property, subject to execution, for the purpose of defrauding his creditors: *Provided*, That any judgment obtained under the provisions of this section, shall be with a rebatement of the interest from the time said judgment is rendered until the time at which said debt would have become due: *And provided, also*, That the defendant may by plea put in issue the matters alleged in the affidavit herein required, and if the plaintiff fail to substantiate some one of the causes required to be in said affidavit, the suit for debt or debts not due shall abate.

SEC. 14. That section one hundred and seventy-three of the

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act which this is intended to amend, be and the same is hereby repealed.

SEC. 15. That when a verdict is given, and is not informal or insufficient, the clerk shall immediately record it in full in the minutes, and shall read it to the jury, and inquire of them whether it is their verdict. If any juror disagree, should it be upon a trial of a person charged with a felony or misdemeanor, the jury shall again be sent out; but in all civil cases, if three-fourths of the jurors agree upon a verdict, it shall stand and have the same force and effect as if agreed upon by the whole of the jurors.

SEC. 16. That sections 408, 409, 410, and 411, of said act, be and the same are hereby repealed.

SEC. 17. That any party to an action in any of the courts of this territory may have the depositions of witnesses taken out of this territory, before any person authorized to administer oaths by the laws of the territory, state or government where taken, upon serving the adverse party with notice, as required in section four hundred and four of the act to which this is amendatory; and said depositions shall be subject to all the objections and restrictions provided by said act for the taking and using depositions in this territory, except that if taken by any officer other than a court, or clerk of a court, having a seal, there shall be appended a certificate of a court, or clerk, having a seal, certifying that such officer before whom the deposition was taken, was, at the time said deposition was taken, authorized to administer oaths according to the laws in force in said government, state, territory, or the District of Columbia.

SEC. 18. That section four hundred and sixty-eight be amended so as to read: "The judgment and order of the court, or judge, made in cases of contempt, shall be final and conclusive. The punishment shall be by fine and imprisonment, but no fine shall exceed the sum of five hundred dollars."

SEC. 19. That an act amendatory of "An Act to regulate proceedings in civil cases, in the courts of justice in Montana territory," approved December 24, 1867, and all other acts and parts of acts, in conflict with the provisions of this act, be and the same are hereby repealed.

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SEC. 20. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT to amend an Act entitled "An Act to regulate Proceedings in Civil Cases, in the Courts of Justice of Montana Territory."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That sections one hundred and thirty-six and one hundred and thirty-seven of an act entitled "An Act to regulate proceedings in civil cases, in the courts of justice of Montana territory," be so amended as to read as follows: "SECTION 136. The defendant may at any time release any property in the hands of the sheriff by virtue of any writ of attachment, by executing an undertaking as provided for in the next section, and all the proceeds of sales and money collected by the sheriff, and all the property attached remaining in his hands, shall be released from the attachment and delivered to the defendant, upon the justification of the sureties on the undertaking."

SEC. 2. That section one hundred and thirty-seven shall read —"Before releasing such attached property as aforesaid to the defendant, the sheriff shall require an undertaking, executed by the defendant and at least two sureties, residents and freeholders, or householders in the county, to the effect that in case the plaintiff recover judgment in the action, defendant will, on demand, redeliver such attached property so released to the proper officer, to be applied to the payment of the judgment, and that in default thereof, the defendant and sureties will pay to the plaintiff the full value of the property so released. The sheriff may fix the sum for which the undertaking shall be executed, and if necessary, in fixing such sum, to know the value of the property released, the same may be appraised by three disinterested persons, to be appointed by the sheriff. And if any sheriff shall release any property held by him under or by virtue of any writ of attachment, without first taking such bond as herein required,

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he and his sureties shall be liable for the value of such property so released."

SEC. 3. All acts or parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT to regulate Appeals from the Probate to the District Court of the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. Any party, feeling aggrieved by the judgment of the probate court, may appeal therefrom to the district court for the county in which said probate court is held, or to which it may be attached for judicial purposes. The party appealing shall be known as the appellant, and the adverse party as the respondent.

SEC. 2. All appeals taken by virtue of the provisions of this act, shall be perfected within thirty days from the rendition of the judgment appealed from, and shall be tried *de novo*, in said district court.

SEC. 3. The appeal shall be taken by filing with the clerk of the court in which the judgment appealed from is entered, or with the judge of said court, if there be no clerk, a notice stating the appeal from the same, and serving a copy of such notice upon the adverse party or his attorney.

SEC. 4. The party appealing shall file with the judge or clerk of said court, within five days from the filing of the notice of appeal, as provided in section three of this act, an undertaking in double the amount of the judgment appealed from, or if the judgment be for the recovery of specific personal property, in double the value of such property, with at least two sufficient sureties, and conditioned that the party appealing will pay any judgment that may be rendered against him in the district court, as well as all costs that may be awarded against him, and for the prosecution of such appeal with effect.

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SEC. 5. If the party appealing be the party in whose favor judgment was rendered, he shall likewise execute and file an undertaking as aforesaid, in a sum equal to double the amount of the costs in the case, conditioned to pay all costs that may be adjudged against him, and for the prosecution of such appeal with effect.

SEC. 6. The undertaking provided for in the two preceding sections, shall be accompanied by the affidavit of the sureties that they are residents of the county, and householders or freeholders thereof, and each worth the amount specified in the undertaking, over and above their debts, liabilities and property by law exempt from execution, but several sureties may state that they are worth less than the amount mentioned in the undertaking, beside such exemptions, if the whole amount equals the amount of two sufficient sureties.

SEC. 7. Within ten days after filing the notice of appeal and undertaking provided for in the preceding sections, and payment of fees therefor, the said judge or clerk of said court shall make a full and complete transcript from the docket of all proceedings had in said action, and transmit the same, together with the complaint, answer, motions, pleadings, and all other papers pertaining to or belonging to said cause, to the clerk of said district court.

SEC. 8. If any execution shall have been issued upon a judgment appealed from, the judge or clerk of said court, upon receiving the notice and undertaking as hereinbefore provided, shall issue an order directing the officer having such execution in his possession, or charged with the execution of the same, to stay all proceedings thereunder. Such officer, upon the payment of his fees for services rendered on such execution, shall thereupon relinquish all property levied upon by him, and deliver the same, together with all money collected from sales or otherwise, to the judgment debtor.

SEC. 9. If the party appealing to the district court, as provided in this act, shall fail to reduce or enlarge the judgment appealed from, ten dollars or more, or revise the same in said district court, he shall not recover any of the costs of appeal.

SEC. 10. That all appeals taken by virtue of this act, shall be tried in the district court upon the papers in the cause, as if the same had originally been instituted in said court, unless said

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court, upon such terms as may be just, allow other papers to be filed therein, and both appellant and respondent shall have the benefit of objection taken in said probate court.

SEC. 11. That the sheriffs of the different counties of this territory are charged with the execution of process issued from said probate court, in like manner as provided for in cases in the district court, for which services they shall receive fees as now provided by law.

SEC. 12. This act shall be exclusively applicable to the probate court in the exercise of jurisdictional powers under and by virtue of an act entitled "An Act to regulate proceedings and define the jurisdiction of the probate courts of the territory of Montana," approved December twenty-third, one thousand eight hundred and sixty-seven.

SEC. 13. In all cases of appeals taken under the third section of the act last aforesaid, the same shall be perfected and taken, and with like effect when taken, as provided for in cases of appeals in justices' courts in criminal cases.

SEC. 14. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

AN ACT creating the Office of Clerk of Probate Court.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the office of clerk of probate court be and the same is hereby created and established for each and every probate court in the territory of Montana.

SEC. 2. The said probate clerks shall be appointed by their respective judges, to hold their office at the will and pleasure of the probate judge so appointing them: *Provided, however*, That the appointment of clerk shall be optional with the judge in such counties; when the judge does not deem it necessary, he may and is hereby authorized to act as ex officio clerk, subject to give such additional bond as is provided in section three.

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SEC. 3. The clerk so appointed or judge acting ex officio clerk of his own court, shall execute and file a bond, with two or more sufficient sureties, in the penal sum of one thousand dollars, payable to the territory of Montana, conditioned for the faithful performance of his duty, which bond shall be approved by the county commissioners of the respective counties, and filed in the office of the county clerk, prior to his entering upon the discharge of his duties as such probate clerk.

SEC. 4. The clerks of said probate court shall be entitled to such fees as are allowed to probate judges for services, as may be rendered in the capacity of clerk of said probate court.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved December 30, 1868.

AN ACT in relation to Costs.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That in any suit hereafter commenced in any of the courts of this territory, the defendant may file a motion asking the court to dismiss the action, or rule the plaintiff to [give] such security as will be approved by the court, which motion shall be accompanied by the affidavit of the defendant, his agent or attorney, to the effect that the plaintiff is insolvent or is not able to pay the cost likely to accrue upon said case, and the court shall dismiss such action, unless the plaintiff justifies to the satisfaction of the court by competent witnesses, or give such bond as will be approved by the court, or deposit such amount of money with the clerk as shall be required by the court.

SEC. 2. That any person may commence and prosecute an action in any of the courts in this territory, who will file an affidavit, stating that he has a good cause of action, that he is unable to pay the costs in money, or to procure security to secure the same; then it is hereby made the duty of the officers of the courts to issue all writs and serve the same without demanding or receiving their fees in advance.

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SEC. 3. That section one, of an act entitled "An Act providing for the payment of jurors, witnesses and officers in Montana territory," approved November 20, 1867, be and the same is hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT to amend an "Act creating the office of District Attorney in each of the Organized Judicial Districts of Montana Territory," approved January 10, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section three of said act be so amended as to read as follows: "They shall be public prosecutors in their respective districts, and shall sign all bills of indictment that may be found by the grand jury, and prosecute and defend on behalf of the people all public prosecutions and civil suits arising in their districts before the supreme and district courts, wherein the people of this territory are a party."

SEC. 2. Section four of said act be so amended as to read as follows: "They shall, when required by any member of the grand jury, give their opinion to them on any matter of law pertaining to their duties as grand jurors, and shall be the legal advisers of territorial, county and township officers, and shall, when requested by any territorial, county or township officer, give to them their opinion on any matter of law pertaining to their duties, without fee or reward. They shall also prosecute on behalf of the people all forfeited recognizances, and shall receive ten per centum of all moneys collected, and ten per cent. on all forfeited bonds and recognizances and undertakings wherein the people are a party, or necessarily involved in the action."

SEC. 3. All laws in conflict with this act are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to repeal Section 20 of an Act entitled "An Act concerning the Foreclosure of Mortgages," approved February 8, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section twenty of an act entitled "An Act concerning the foreclosure of mortgages," approved February 8, 1865, be and the same is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

AN ACT conferring authority on Probate Judges to issue Writs of Injunction, Quo Warranto and Mandamus in certain cases.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That whenever an action shall have been commenced in any of the district courts of this territory, wherein writs of injunction, quo warranto and mandamus may properly issue, by virtue of the provisions of an act entitled "An Act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved December 2, 1867, the probate judge of the county in which such action is brought, in case of the absence or disability of the district judge, is hereby authorized to issue such writs, which shall have the same force and effect as if issued from the district court.

SEC. 2. Whenever such writs shall be issued by the probate judge in pursuance with the provisions of this act, the same shall be made returnable to the district court of the county in which said action is brought, or to which said county may be attached for judicial purposes, which shall be executed and returned in like manner as if issued from said district court.

SEC. 3. In all cases of contempt, arising from the violation of any writ or order issued under the provisions of this act, the district judge shall hear and determine the same as though said

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writ or order was originally issued by him; or, in case of the absence or other disability of said district judge, the said probate judge shall hear the same as provided by law in cases of contempt.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 12, 1869.

AN ACT to amend an Act entitled "An Act concerning Crimes and Punishments."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one hundred and twelve of "An Act concerning crimes and punishments" be so amended as to read as follows: "If any judge, justice of the peace, sheriff, coroner, constable, clerk or other officer, or assessor of this territory, ministerial or judicial, shall receive or take any fee or reward, to do or execute his duty as such officer, except such as is or shall be allowed by law; or if any such officer shall ask, demand or receive (either before or after service performed) any other or greater fees than are allowed by law, every such officer so offending shall be deemed guilty of extortion, and on conviction shall be fined in any sum not less than two hundred dollars, nor more than one thousand dollars, and on conviction be removed from office, and shall, at the suit of the party aggrieved, be liable for treble the amount of the fees so illegally charged and received.

SEC. 2. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

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AN ACT concerning Boats.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. Any boat found within the waters of this territory is liable, First, for all debts contracted by the master, owner, agent, clerk or consignee thereof, on account of supplies furnished for the use of such boat, or on account of work done or materials furnished in building, repairing, fitting out, furnishing, or equipping such boat; second, for all demands or damages accruing from the non-performance or mal-performance of any contract of affreightment, or any contract relative to the transportation of persons or property entered into by the master, owner, agent, clerk or consignee thereof; third, for all injuries to persons or property by such boat, or by the officers or crew, done in connection with business of such boat.

SEC. 2. Claims growing out of any of the above causes are liens upon such boat, its apparel, tackling, furniture and appendages, including barges and lighters, if owned by the owners of such boat, and used therewith at the time suit is commenced.

SEC. 3. Such liens shall take preference of any claim against the boat itself, or any or all of its owners, growing out of any other causes than those above enumerated, and as between themselves they shall be preferred in the following order: First, those resulting from wages for services rendered on board such boat, within the year then passed, providing that suit is brought within twenty days after the cessation of such labor; second, those resulting from contracts made within this territory; third, all other causes.

SEC. 4. Actions against boats, under the provisions of this act, shall not be brought after the lapse of one year from the time the cause of action accrued.

SEC. 5. The lien shall attach from the commencement of suit, subject only to such other liens as are of preferred class.

SEC. 6. Any raft found in the waters of the territory, shall be liable for all debts contracted by the owner, clerk, pilot or agent thereof, on account of work done, or services rendered for such raft. Claims growing out of either of the above causes shall be liens upon the raft, its tackling and appendages, for the

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term of twenty days from the time the right thereof accrued, and the same rules shall govern, and the same process shall be had, that is prescribed for similar liens against boats.

SEC. 7. Any person desiring to take the benefit of this act shall file with any judge, or clerk of any court, or justice of the peace having jurisdiction, a complaint in writing, duly verified by the plaintiff, or his agent or attorney, which complaint shall show that the plaintiff is entitled to the benefit of this act, whereupon, such judge, clerk or justice of the peace, shall issue his warrant to the proper officer, commanding him to seize the boat, its tackling, apparel, furniture and appendages, and detain the same until released by due course of law.

SEC. 8. The complaint shall describe the boat by name as defendant, but, if it have no name, then by such description as will enable the officer attaching to seize the proper property.

SEC. 9. The usual summons shall be issued, directed to the boat by name, or to the property to be attached, if no name appear, and be served upon the master, owner, clerk, agent or consignee thereof, and if none of them can be found, by posting up a copy in some conspicuous part of the boat, or property to be attached The warrant shall be served according to the directions it contains.

SEC. 10. Any sheriff, constable or city marshal, or marshal of the territory, may serve the warrant and summons above mentioned, whether the same issue from the office of clerk, or from a judge or justice of the peace, and any clerk, judge or justice may, in his discretion, appoint any suitable person to serve such summons and warrant, who shall have all the power of a sheriff in the premises.

SEC. 11. Any master, agent, clerk, consignee, or other person, interested in the boat, may appear by himself, his agent or attorney, for the defendant, and conduct the defense of the suit and no continuance shall be granted to the plaintiff while the boat is in custody.

SEC. 12. The boat may be discharged at any time before final judgment, by giving bonds with at least two sureties, to be approved by the officers serving the warrant, or by the clerk, judge or justice who issued it, in a penalty double the plaintiff's

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demand and costs, conditioned, that the obligors will pay the amount found due to the plaintiff with costs.

SEC. 13. If judgment be rendered against the boat, before it is discharged, as provided in the last section, execution shall issue against it, together with its apparel, tackling, furniture and appendages.

SEC. 14. The officer may sell any of the furniture and appendages of the boat, if by doing so, he can satisfy the demand; if he sell the boat itself, he must sell it to the bidder who will advance the amount necessary to satisfy the execution for the lowest fractional share of the boat, unless the person appearing for the boat, require a different and equally convenient mode of sale.

SEC. 15. If a fractional share of the boat be thus sold, the purchaser shall hold such share or interest jointly with the owners.

SEC. 16. Nothing herein contained shall affect the right of a plaintiff to sue in the same manner as though this act had not been enacted.

SEC. 17. It shall be sufficient for the plaintiff to allege in his complaint or affidavit that the services were rendered or material furnished the boat by its name.

SEC. 18. This act to take effect and be in force from and after its passage.

Approved January 13, 1869.

AN ACT to provide for the Exemption of Homesteads from forced sale upon Execution or other final process.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. A homestead, consisting of any quantity of land, not exceeding eighty acres, used for agricultural purposes, and the dwelling house thereon and its appurtenances, to be selected by the owner thereof, and not included in any town plot or city, or village, or, instead thereof, at the option of the owner, a quantity of land, not exceeding in amount one-fourth of an acre, being

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within a town plot or city or village, and the dwelling house thereon, and its appurtenances, owned and occupied by any resident of this territory, shall not be subject to forced sale on execution or any other final process from a court: *Provided*, Such homestead shall not exceed in value the sum of two thousand five hundred dollars.

SEC. 2. Such exemption shall not affect any laborers' or mechanics' lien, or extend to any mortgage thereon, lawfully obtained, but such mortgage or other alienation of such homestead by the owner thereof, if a married man, shall be void unless the wife join in the execution of the conveyance thereof; and nothing contained in this act shall be so construed as to affect any existing debt or debts contracted in this territory prior to the passage of this act.

SEC. 3. Whenever a levy shall be made upon the lands or tenements of a householder whose homestead has not been selected and set apart by metes and bounds, such householder may notify the officer, at the time of making such levy, of what he regards as his homestead, with a description thereof, within the limits above prescribed, and the remainder alone shall be subject to sale under such levy.

SEC. 4. If the plaintiff in execution shall be dissatisfied with the quantity of land selected and set apart as aforesaid, the officer making such levy shall cause the same to be surveyed, beginning at a point to be designated by the owner, and set off in a compact form, including the dwelling house and its appurtenances, to the amount specified in the first section of this act, and the expense of such survey shall be chargeable on the execution, and collected thereupon, if it shall appear, after such survey, that the owner of such land did not correctly state his metes and bounds, otherwise the expense of such survey shall be borne by the person directing the same.

SEC. 5. Any person owning and occupying any dwelling house on land not his own, which land he shall be rightfully in possession of by lease or otherwise, and claiming such house as his homestead, shall be entitled to the exemption of such house.

SEC. 6. Real estate exempt from forced sale on execution or other final process, as the homestead of a family, shall likewise,

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after the death of the owner thereof, be exempt from the payment of his debts, in all cases in which any infant children of the said owner shall survive him, and no executor or administrator shall have a right to the possession of any real estate so exempted, or to the rents or profits of the same.

SEC. 7. The owner of a homestead may remove therefrom, or sell and convey the same, and such removal or sale and conveyance shall not render such homestead subject or liable to forced sale, on execution or other final process, issued against such owner, nor shall any judgment or decree of a court be a lien on such homestead, for any purpose whatever: *Provided*, That this act shall not be so construed as to, in any manner, relate to judgments or decrees rendered on the foreclosure of mortgages, either equitable or legal.

SEC. 8. On the death of the owner of such homestead, the same shall descend to his widow, and she shall take and hold the same during her natural life, freed from the incumbrance of all judgments and claims against the deceased or his estate except mortgages lawfully executed thereon.

SEC. 9. That the provisions of this act shall only apply to married men or the head of a family.

SEC. 10. This act to take effect and be in force from and after its passage.

Approved January 7, 1869.

AN ACT authorizing County Clerks to administer Oaths, and for other purposes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That county clerks and ex officio county recorders of each county of the territory of Montana, be and are hereby authorized to administer legal oaths, and take such acknowledgments to any instrument of writing now required to be acknowledged by any law of this territory.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 6, 1869.

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AN ACT to amend an Act entitled "An Act relating to the discovery and possessory right of Placer Mines," approved December 11, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the act entitled "An Act relating to the discovery and possessory right of placer mines," approved December 11, 1867, so far as the same applies to the counties of Deer Lodge and Missoula, be and the same is hereby repealed.

SEC. 2. This act to take effect from and after its passage.

Approved December 30, 1868.

AN ACT providing for the admission of Attorneys before the Supreme Court of the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. All attorneys who have been admitted to practice before the district courts of the territory of Montana, may, upon motion, and proof of good moral character, be admitted as attorneys and counselors at law, to practice in the supreme court of the territory of Montana.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved December 15, 1868.

AN ACT to amend an Act entitled "An Act relative to the Pre-emption of Town Sites upon Public Lands, and the disposal of Trusts created thereby," approved December 12, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one of said act be amended so as to read as follows: "SECTION 1. That whenever the citizens of any town located, or that may hereafter be located, upon

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the public lands of the United States, shall desire to obtain title to the town site thus occupied by them, it shall be lawful for the corporate authorities of such town, or if the same be unincorporated, then for the judge of the probate court of the county in which such town is located, whenever such desire of the citizens is certified to such incorporate authorities, or judge of the probate court, as the case may be, by a petition signed by a majority of the resident property holders of such town, to enter, at the proper land office, so much of the land that such town may be entitled to under the provisions of the act of congress entitled 'An Act for the relief of the inhabitants of cities and towns upon the public lands,' approved March 2, 1867, as may be actually necessary for the purposes of said town, in trust for the several use and benefit of the occupants thereof, according to their respective interests: *Provided*, That nothing in this act contained shall be so construed as to authorize or empower the said incorporate authorities or probate judge, as the case may be, to enter or to cause to be surveyed, as hereinafter provided, any tract or legal subdivision of land, not actually occupied as a town site, in whole or in part, by the citizens of such town: *Provided, further*, That no entry of any town site, under the provisions of this act, shall interfere with the prior rights of any person claiming any land under the homestead or pre-emption laws of the United States."

SEC. 2. That section eight of said act be and the same is hereby amended, so as to read as follows: "SECTION 8. The number of lots which any one claimant shall be entitled to pre-empt, under the provisions of this act, shall be two, not exceeding in area four thousand two hundred square feet each, and such additional lot or lots upon which said claimant may have substantial improvements of the value of not less than two hundred and fifty dollars. When any claimant shall make application to enter more than two lots, he shall prove, in addition to other matters of proof required by this act, to the satisfaction of said incorporate authorities or probate judge, as the case may be, by the affidavit of one or more reliable witnesses, the nature, character and actual cash value of the improvements upon such additional lot so sought to be entered by him."

SEC. 3. The residue of lots left in the possession of the incor-

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porate authorities or probate judge, as the case may be, and unclaimed, shall be open to settlement and improvement by actual settlers. Whenever any person shall desire to settle upon any such unclaimed lot, he shall file with the incorporate authorities or probate judge, as the case may be, a notice setting forth his settlement upon such lot or lots, particularly describing the same, and the date of his settlement thereon, and thereafter, when he shall make proof of having resided upon such lot or lots for a period of three months continuously, he shall be permitted to pre-empt such lot or lots upon the same terms and conditions as an original resident of such town.

SEC. 4. That whenever the term of office of any officer authorized by this act to make entry of a town site shall expire, or he shall resign, or be removed from office, he shall turn over all books and papers relative to such entry to his successor in office, and thereafter the said trust shall be discharged in every particular by such successor.

SEC. 5. It shall be the duty of the corporate authorities or county judge, as the case may be, when any town site has been located and surveyed under the provisions of this act, upon the petition of ten resident householders of said town site, to locate and set apart, by and with the advice and approval of the board of school directors of the district in which said town site may be located, a site for a district school, not more than one acre, and the said county judge or corporate authorities shall convey by deed to said board of directors, the lots included in said location, and said board shall manage the same as other school property of the district is managed. And upon the petition of twenty resident householders, as aforesaid, the probate judge or corporate authorities, with the advice and approval of the county superintendent of the county in which said town site is located, shall set apart a site for a college or university, not to exceed twenty acres, and the said location shall be held in trust by the county judge or corporate authorities for said college or university: *Provided*, Said locations shall not include any lot held by a *bona fide* claimant, nor interfere with vested rights.

SEC. 6. That if any portion of said city or town shall fall upon surveyed public lands, which have hitherto been occupied and improved by any person or persons holding and occupying the

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same in good faith, prior to the passage of said act entitled "An Act relative to the pre-emption of town sites upon public lands, and the disposal of trusts created thereby," it shall be the duty of the corporate authorities or probate judge, as the case may be, if the petition aforesaid shall have been presented to him in pursuance of the provisions of said act, to enter said land in conformity to the legal subdivisions thereof, as authorized by act of congress of the 2nd of March, 1867, and an act to amend the same, approved June 8, 1868, and upon the payment to him of the price paid in entering the same, and such other costs and expenses as are necessarily incurred by virtue of the provisions of this act, to make and deliver to the said occupant or occupants, as the case may be, a good and sufficient deed for the ground occupied by them.

SEC. 7. That section fifteen of said act be so amended as to read as follows: "SECTION 15. For the purpose of raising funds to defray the expenses incurred in entering, surveying and platting said town site, the probate judge or corporate authorities, as the case may be, are hereby authorized and empowered to borrow money at the customary rate of interest, and draw his or its draft upon the county or city treasurer, as the case may be, for such amount, which shall be paid out of the money received as the purchase price of lots, as hereinbefore provided, which said funds are hereby pledged and set apart to be applied for this purpose."

SEC. 8. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

AN ACT explanatory of an Act entitled "An Act relative to the Pre emption of Town Sites upon Public Lands, and the disposal of Trusts created thereby."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section six of said act be so construed as to embrace and apply to only such portion of any legal subdivision

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as shall be outside of the limits of ground actually occupied by the inhabitants of such town.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT concerning the drawing of Jurors in Deer Lodge and Madison Counties.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. The county commissioners of Deer Lodge and Madison counties, when a term of the district court may hereafter be held, shall, at least twenty days prior to the commencement of said term of court, select the names of one hundred persons, lawfully qualified to serve as jurors, from the county assessor's books of the county, and the names of the persons so selected, after being written on separate slips of paper, shall be deposited in a box, to be provided for such purpose, and from the names so deposited the county commissioners shall, alternately, draw the names of thirty persons, who shall be summoned as trial jurors for the next ensuing term of such district court.

SEC. 2. That it shall be the duty of the commissioners of Deer Lodge and Madison counties, at least twenty days prior to the assembling of a court authorized by law to inquire into public affairs, by the intervention of a grand jury, to select the names of sixteen persons, eligible to serve as jurors, and upon a venire being issued by the clerk of such court, the sheriff shall, at least five days prior to the meeting of the said court, summon said jurors to appear on the first day of the next term, and from such panel the court shall select twelve persons, who shall constitute such grand jury: *Provided*, The board of county commissioners of said counties shall not require a grand jury oftener than once every six months.

SEC. 3. If any officer shall fail or refuse to perform his duties, as required by this act, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any tribunal having

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competent jurisdiction, shall be fined in any sum not exceeding five hundred dollars.

SEC. 4. That all acts or parts of acts conflicting with the provisions of this act, shall, as to the counties of Deer Lodge and Madison, be and the same are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 12, 1869.

AN ACT to amend an Act entitled "An Act defining the duties of County Treasurers, and the payment of County Warrants."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section three of an act entitled "An Act defining the duties of county treasurers, and the payment of county warrants," be so amended as to read as follows: "The county treasurers of the several counties of this territory shall, on the first Monday of every month, post upon the door of their offices, a list of all warrants that they have funds in their hands to redeem or pay, the payment for which has not been demanded during the month last passed, and, from the date of such notice, the interest on all warrants thus posted shall cease; and it shall be the duty of such treasurer to file a true copy of said notice in the office of the county clerk of his county, which clerk shall file and preserve the same in his office, which notice, or a duly authenticated copy thereof, shall be *prima facie* evidence of such posting: *Provided, however*, That in all cases where county warrants have been posted or advertised, as in this section directed, and not presented for payment within two months from the date of such notice, shall be passed over, and the money in the treasury be paid upon the next warrants in turn according to their number and registration as the law directs, but that such warrants, so passed, shall at any time thereafter take preference for payment upon presentation to such treasurer.

SEC. 2. All acts or parts of acts in conflict with this act be and the same are hereby repealed.

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SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

AN ACT to amend "An Act defining the duties of Territorial Auditor and Territorial Treasurer of the Territory of Montana."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. Amend section three of said act, so as to read as follows: "SECTION 3. The territorial auditor shall furnish the collector of each county or district with blank licenses and receipts for money collected, or to be collected, subscribed by himself, taking the collector's receipt of the counties for the same."

SEC. 2. That the territorial auditor, treasurer, and superintendent of public instruction, are hereby authorized and empowered to report to the governor at the expiration of their term of office in eighteen hundred and sixty-nine, and the governor is hereby authorized to examine and settle their respective accounts, and cause to be published a full statement of said accounts in some newspaper published at the capital, and transmit a copy of said report to the legislative assembly.

SEC. 3. That the first day of December in each and every year shall be the end of the fiscal year for territorial purposes.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT to amend an Act entitled "An Act to provide for the formation of Corporations for certain purposes," approved December 13, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one of an act providing for the formation of corporations, approved December 13, A. D. 1867, be

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amended to read: "At any time hereafter, any three or more persons who may desire to form a company for the purpose of carrying on any kind of manufacturing, mining, mechanical or chemical business, dig ditches, build flumes, run tunnels, or to carry on any branch of business designed to aid in industrial or productive interest of the country, make, sign and acknowledge, before some officer competent to take acknowledgments of deeds, and file in the office of the clerk of the county in which the business of the company shall be carried on, and a duplicate thereof in the office of the secretary of the territory, a certificate in writing, in which shall be stated the corporate name of said company, and the object for which the company shall be formed, the amount of capital stock of the said company, the term of its existence, not to exceed twenty years, the number of shares of which the said stock shall consist, the number of trustees, and their names, who shall manage the concerns of said company for the first three months, and the name of the city, town, or locality, and the county in which the operations of said company shall be carried on.

SEC. 2. That sections twenty-eight, twenty-nine, thirty, thirty-six, thirty-seven, thirty-eight, thirty-nine, of the act of which this is amendatory, are hereby repealed.

SEC. 3. That section forty-three be so amended as to read, "Any company formed under the provisions of this act, for the purpose of constructing any ditch or flume, shall, within sixty days from the date of their certificate, commence work on such ditch or flume as shall be named in the certificate, and shall prosecute the work with due diligence until the same is completed, and the time of completion of any such ditch shall not be extended beyond a period of three years from the time the work was commenced, as aforesaid; and any company failing to commence work within sixty days from the date of certificate, or failing to complete the same within three years from the time of commencement as aforesaid, shall forfeit all the right to the route so claimed, and the same shall be subject to be claimed by any other company. The time for the completion of any flume constructed under the provisions of this act, shall not be extended beyond a period of three years, and the county commissioners of the counties in which roads and bridges may have been constructed

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under the provisions of the act of which this is amendatory, shall have the right to purchase the same, upon agreement with said company or companies, and declare them free for public use."

SEC. 4. From and after the passage of this act, no corporations shall be formed under the provisions of the act of which this is amendatory, for the purpose of establishing ferries, toll bridges, or toll roads.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 6, 1869.

AN ACT to amend an Act entitled "An Act creating certain Offices in the Territory of Montana, declaring to whom resignations shall be made, when the office shall be deemed vacant, and the manner of filling vacancies," approved Nov. 16, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section six of said act be and it is hereby so amended as to read, "Resignations shall be made by territorial and district officers to the governor, and of the county commissioners to the probate judge, and of county officers, except county commissioners, to the county commissioners in their respective counties."

SEC. 2. That section nine of said act be and it is hereby so amended as to read, "Whenever a vacancy shall occur at any time in the office of territorial treasurer, auditor, superintendent of public instruction, or district attorney, the governor, by and with the advice and consent of the legislative council, shall appoint some suitable person to perform the duties of such office, and when a vacancy shall occur in the office of county commissioner, the probate judge shall appoint some suitable person to perform the duties of such office; such officers, so appointed, shall hold their respective offices until the general election next following such appointment."

SEC. 3. All acts or parts of acts conflicting with this act are hereby repealed.

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SEC. 4. This act to take effect and be in force from and after its passage.

Approved December 31, 1868.

AN ACT to amend "An Act regulating Fees of Officers, Jurors and Witnesses," approved February 9, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:

That under the head of fees of the clerk of the district court, said act be amended to read as follows:

SECTION 1. For index entries, the same fees as county recorders. For copies of record, same fees as county recorder. For each entry in index, fifteen cents.

SEC. 2. That all acts and parts of acts in conflict with this, the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT to amend an Act entitled "An Act to define the duties of Territorial Superintendent of Public Instruction."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section six of the act herein mentioned be repealed, and the following be substituted in the place thereof: "The superintendent shall keep his office where there is a post office, and he shall give notice of his place of residence by publication, for at least three successive weeks, in the same newspaper published in the territory as may be most convenient to him; and he shall receive a salary of two thousand dollars per annum, which shall be paid quarterly out of the territorial treasury, out of any moneys not otherwise appropriated.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT repealing part of Section six of "An Act relative to the discovery of Gold and Silver Quartz Lodes or Ledges, and the manner of their location," approved December 25, 1868.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That so much of section six of said act as relates to, and requires the discoverers, or some pre-emptor, to deposit in the recorder's office, a specimen of the quartz ore or mineral taken from said lead, lode or ledge, which said specimen shall be properly labeled by the recorder and preserved in his office, be and the same is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

AN ACT amendatory of an Act entitled "An Act relating to Counties and County Officers," approved February 9, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. In addition to the authority delegated to them in article 1, section 14, the county commissioners of each county are hereby authorized to set aside a sum of not less than one nor more than twenty-five per cent. of the county fund annually, which shall be known as the contingent fund, to defray incidental expenses of the county.

SEC. 2. If a surplus of the fund set aside in section two of this act remain, it shall be paid out on registered warrants as other county funds, at the expiration of each quarterly settlement.

SEC. 3. Strike out section 11 of article 1, and insert, in lieu thereof, "Said board of county commissioners shall meet at the first county seat of their respective counties on the first Monday of May, August, November and February of each year, and may sit not exceeding four days at each term."

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

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SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

AN ACT amendatory of an Act entitled "An Act relating to Counties and County Officers," approved February 9, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. In addition to the authority delegated to them in article first, section fourteen, the county commissioners of each county are hereby authorized to set aside a sum of not less than one nor more than twenty-five per cent. of the county fund annually, which shall be known as the contingent fund, to defray incidental expenses of the county.

SEC. 2. If a surplus of the fund set aside in section two of this act remain, it shall be paid out on registered warrants as other county funds at the expiration of each quarterly settlement.

SEC. 3. Strike out section eleven of article first, and insert, in lieu thereof, "Said board of county commissioners shall meet at the county seat of their respective counties, on the first Monday of May, August, November and February of each year, and may sit not exceeding four days at each term.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

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AN ACT to authorize the Territorial Auditor to issue a duplicate Territorial Warrant in lieu of Territorial Warrant No. three of two hundred and forty-eight, for three hundred and ninety dollars, to E. W. Haskell.

Be it enacted by the legislative Assembly of the Territory of Montana:

SECTION 1. That the territorial auditor is hereby empowered and authorized to issue a territorial warrant for three hundred and ninety dollars, No. three of two hundred and forty-eight, to E. W. Haskell, in lieu of the original warrant of that number and amount issued to Ph. McGovern, and duly transferred by him to said E. W. Haskell, and now owned by said E. W. Haskell, and by him lost.

SEC. 2. That the territorial treasurer is hereby authorized to make on his books the original as lost, and duplicate issued in lieu thereof.

SEC. 3. That said duplicate warrant, when issued, shall take the place of the original warrant, in the order of registration and payment.

SEC. 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 14, 1868.

AN ACT relating to Fires, and the protection of Timber and Grasses.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That any person who shall carelessly set fire to any timber or grasses, except for useful or necessary purposes, or who shall at any time make any camp fires, or shall light any fire for any purpose without taking sufficient steps to secure the same from spreading from the immediate locality where the same may be used, or shall fail in any instance to put out or extinguish said fire or fires before leaving or abandoning the same, shall be deemed

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guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not to exceed twenty-five dollars, in the discretion of the court, and shall be liable for all costs and damages accruing from said act.

SEC. 2. Any person who shall wantonly or designedly set fire to any timber or grasses, for other than necessary purposes, or who shall, from a malicious intent, fail to extinguish every vestige of fire after making the same for even a necessary purpose, before leaving or abandoning the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined by a fine of not less than one hundred dollars, nor more than five hundred dollars, and imprisoned in the county jail or territorial prison for the term of not less than three months, nor more than six months, in the discretion of the court.

SEC. 3. All acts and parts of acts heretofore passed conflicting with this are hereby repealed.

SEC. 4. This act to take effect from and after its passage.

Approved December 30, 1868.

AN ACT to amend an Act entitled "An Act to provide increased Compensation to the Officers in this Territory," approved December 6, A. D. 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section four of said act, be so amended that it shall read as follows: "That the salary of the district judges of this territory, in addition to that now allowed by the United States government, be one thousand dollars annually, payable quarterly."

SEC. 2. That all acts and parts of acts conflicting with this act are hereby repealed.

SEC. 3. This act to be in force from and after its passage, and approval by the governor.

Approved January 15, 1869.

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AN ACT to amend Section One of an Act entitled "An Act to amend an Act to provide increased Compensation to the Officers of this Territory," approved December 6, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one of the act which this is intended to amend, be amended so as to read as follows: "The salary of the governor of this territory, in addition to the sum already provided by the United States government, shall be and is hereby increased to the sum of one thousand dollars per annum.

SEC. 2. All acts or parts of acts in conflict with the provisions of this act be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT supplementary to an Act to provide for the Funding of the Debt of Montana Territory, approved December 3, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the treasurer of Montana territory shall, on or before the first day of June, 1869, issue bonds of the territory of Montana for all territorial warrants, outstanding, which were issued prior to the first day of November, A. D. 1868.

SEC. 2. The said bonds shall be issued and paid as to interest and principal, in accordance with the provisions of the "Act to provide for the funding of the debt of Montana territory," approved December 3, 1867.

SEC. 3. The territorial auditor is hereby authorized and empowered to have printed, sufficient bonds to fund the balance of said territorial warrants issued prior to the first day of November, A. D. 1867.

SEC. 4. That any person or persons, having deposited with the territorial auditor, territorial warrants, and failing to procure bonds, prior to the first day of June, 1868, shall be entitled to

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their bond, by paying to the territorial treasurer the difference between said warrants and sum fixed in said bonds in cash.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 12, 1869.

AN ACT to amend an Act entitled "An Act defining the Council and Representative Districts of the Territory of Montana, and appropriating the Members of the Legislative Assembly thereof," approved December 13, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one, of an act entitled "An Act defining the council and representative districts of the territory of Montana, and appropriating the members of the legislative assembly thereof," approved December 13, 1867, be and the same is hereby amended, so as to read as follows: "SECTION 1. That the next session of the legislative assembly of the territory of Montana, shall convene at the seat of government of said territory, on the first Monday of December, one thousand eight hundred and seventy, at 12 o'clock, M., on that day, and biennially thereafter."

SEC. 2. That in case an extraordinary session of the legislative assembly shall become necessary, or be convened after the next general election, then the members of the council whose terms of office have not expired, together with the members of the council and house of representatives elected at the said next general election, shall constitute the said legislative assembly.

SEC. 3. That all acts or parts of acts in anywise conflicting with this act, be and the same are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to authorize the County Commissioners of Choteau County to establish a system of Wharfage at Benton City, in said County.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. The county commissioners of Choteau county are hereby authorized, if they deem proper, to collect a wharfage fee at Benton City in said county, subject to the restrictions herein contained. The said commissioners are authorized to collect from each and every steamboat, landing at said port, between Fort Benton and old Fort La Barge, or the point opposite which Fort La Barge formerly stood, a sum of money not to exceed ten dollars per day for each and every day or fractional part thereof, which such boat lies between the points above named.

SEC. 2. The said commissioners may appoint a wharf master, who, before entering upon his duties, shall file with the county clerk of said county a bond, with at least two sufficient sureties, to be approved by the probate judge and treasurer of said county, in the sum of one thousand dollars, conditioned that he will faithfully perform the duties of his office as prescribed by this act. He shall report, at least once in every week during the season in which the waters of the Missouri are navigable, to the county treasurer of said county, the number of steamboats landing within said limits, the number of days each one has laid there, the number at that time remaining, the amount collected from each, and the total amount collected; and he shall, at least once in every month, pay into the county treasury all moneys collected by him during the month last past.

SEC. 3. All moneys collected under the provisions of this act shall be expended under the supervision and direction of the county commissioners of said county, in the building and construction of a wharf or wharves to be located at such place or places as the said commissioners may select: *Provided*, That such wharf or wharves, pier or piers, shall be constructed within the limits hereinbefore prescribed.

SEC. 4. The county commissioners shall pay to the wharf master a reasonable compensation, to be allowed and paid out of the fund collected under the provisions of this act.

SEC. 5. In case of refusal by any master, clerk, agent, owner, consignee, or other officer or person interested in said steamboat,

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to pay the amount of wharfage as fixed by the county commissioners in accordance with the provisions of this act, the wharf master may proceed to collect the same in the same manner as is prescribed by law for collectors in enforcing the collection of licenses on like property.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT to amend an Act entitled "An Act to prevent the collection of Illegal Toll," approved December 23, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one, of an act entitled "An Act to prevent the collection of illegal toll," approved December 23, 1867, be amended to read as follows: "That any person or association of persons charging toll upon any road, bridge or ferry without authority of law, or who shall charge more toll than is allowed by his or their charter, shall be liable to the person or persons paying such illegal toll, in ten times the amount so paid, which may be recovered in any court, having jurisdiction, and in addition thereto, shall be subject to a criminal prosecution, and upon conviction, shall be fined in any sum, not less than fifty dollars, nor more than five hundred dollars, to be imposed and collected as fines in other cases, one-half of which fine shall go to the informant, and one-half shall be paid into the county treasury for the benefit of the school fund of the county in which the offense was committed."

SEC. 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

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AN ACT to repeal an Act entitled "An Act to prevent the sale of Intoxicating Liquors to Soldiers."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That an act entitled "An Act to prevent the sale of intoxicating liquors to soldiers," approved January 6, 1865, be and the same is hereby repealed.

SEC. 2. That all acts and parts of acts, conflicting with this act, be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

AN ACT in relation to Public Highways.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the several boards of county commissioners, on the petition of thirty *bona fide* citizens of any township of this territory, may, in their discretion, establish such township, or any part thereof, into suitable and convenient road districts, and cause a brief description of the same to be entered on the county records. That in all cases where such petition is presented to the board of county commissioners of any county, they shall, prior to granting the same, cause a public notice thereof to be given by publication or otherwise, as they, the commissioners, may elect.

SEC. 2. The county commissioners shall, annually, at the February term thereof, appoint a supervisor of roads, for each road district in the county, and shall at any time fill any vacancy that may occur in such office; and the county clerk of each county shall immediately notify all persons who have been appointed as supervisors, and they shall qualify within twenty days after their appointment, and such supervisors shall take an oath before entering upon the duties of their office, for the faithful performance of their duties; that they will call out all persons in their respective districts liable to work on highways therein; that they will super-

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intend the labor thereon, and see that the same is faithfully performed, and sue for and collect all moneys due such district.

SEC. 3. There shall be levied and collected on all taxable property in each district, the sum of one mill on the dollar, also a head tax of three dollars on each able bodied man, between the ages of twenty-one and forty-five, residing in each district: *Provided*, That any person, liable to pay road tax, may work out such tax under the supervision of the supervisor of the district where such person resides, and shall be allowed for such work the sum of three dollars per day.

SEC. 4. The supervisor of each district shall make out a list of all persons in his district, who have been residents in such district thirty days, and file a copy of the same with the clerk of the board of county commissioners at the February term in each year, showing a full and concise statement of all labor performed, moneys received and paid out, and if a surplus of money shall remain after the payment of all road dues, the county commissioners shall place the same to the credit of the school fund.

SEC. 5. Any supervisor who shall fail to perform the duties required of him by this act, shall be deemed guilty of a misdemeanor, and shall be fined in any sum not exceeding five hundred dollars, before any court having competent jurisdiction.

SEC. 6. The compensation of a road supervisor shall be fixed by the board of county commissioners, and shall not exceed the sum of five dollars per day, payable out of the road fund.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved January 6, 1869.

AN ACT to prevent the unlawful driving away of Cattle and other Stock by Drovers and others.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That any drover or other person or persons who shall drive off, or who shall knowingly or willingly suffer or per-

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mit to be driven off from the premises of any citizen of said territory, or from the range on which the stock of any such citizen usually run, any horses, mules, neat cattle, hogs, sheep, or any stock belonging to such citizen, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding one hundred dollars, and be liable for all costs and damages, or by imprisonment in the county jail, not exceeding thirty days.

SEC. 2. Any justice of the peace in any county through which said stock shall pass, or in which it may be found, shall have jurisdiction of the offense: *Provided*, That conviction before one justice shall be a bar to any other prosecution for the same offense.

SEC. 3. That all moneys collected under the provisions of this act, shall be paid into the school fund of the county in which the offense is committed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved December 30, 1868.

AN ACT to amend an Act supplementary to an Act entitled "An Act amendatory of an Act entitled 'An Act regulating the holding of Elections in Montana Territory,'" approved November 22, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one of said act be so amended as to read as follows: "That nothing in an act entitled 'An Act to amend an act regulating the holding of elections in Montana territory," approved November 22, 1867, shall be so construed as to conflict with or abridge the rights of any person or persons enfranchised by a law of congress, approved January 24, 1867."

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved December 30, 1868.

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AN ACT concerning Stallions.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. If any stallion or stud horse, ridgling, or any unaltered male mule or jackass over the age of two years, be found running at large, the owner shall be fined for the first offense ten dollars, and for each subsequent offense not more than fifty nor less than twenty-five dollars, to be recovered by civil action, before a justice of the peace, in the name of any person who will prosecute for the same, one-half to his own use and the other half to the use of the county.

SEC. 2. Any person may take up any such horse, mule or jackass found running at large, and if not claimed in five days may castrate him, such castration being performed in the usual manner, so that the life of the animal be endangered as little as possible.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved December 30, 1868.

AN ACT to regulate the Tolls on certain Stock over the Toll Road from Virginia City in Madison County to Sterling, in Hot Spring District.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That from and after the passage of this act, the tolls on certain stock over the toll road from Virginia city, in Madison county, to Sterling, in Hot Spring district, shall be as follows: For each pack animal, twenty-five cents; for each head of loose horses, cattle or mules, ten cents; for each head of sheep, goats or hogs, two and one-half cents.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 7, 1869.

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AN ACT to declare the Military or Mullen road a Public Highway.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. All that portion of the military road known as the Mullen road from Fort Benton to the summit of the Cœur d'Alene mountains, be and the same is hereby declared a public highway; and any person or persons collecting toll on the said Mullen road shall be deemed guilty of a misdemeanor, and on conviction before any court of competent jurisdiction, shall be fined in any sum not less than twenty-five nor more than one hundred dollars, and be adjudged to pay all costs of prosecution.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 7, 1869.

AN ACT establishing the County of Dawson, defining the Boundaries, and locating the County Seat thereof.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That all that part of Montana territory embraced within the following boundaries, be and the same is hereby created a county, to be known as Dawson county, to wit: Commencing at the intersecting point of parallel of latitude forty-seven degrees, with meridian of longitude one hundred and eight degrees, and thence along said parallel forty-seven degrees to meridian of longitude one hundred and four degrees, and from thence along said meridian north to forty-ninth parallel of latitude, and from thence along said parallel forty-nine degrees to meridian of longitude one hundred and eight degrees, and from thence south along said meridian to place of beginning.

SEC. 2. That it shall be the duty of the governor to appoint suitable persons to fill the county officers for said county, who shall qualify and hold their respective offices until the general election in eighteen hundred and sixty-nine.

SEC. 3. The county seat of said county of Dawson is hereby

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located at Fort Peck. That the county of Dawson shall be attached to the county of Choteau for council and representative purposes.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT to amend an Act entitled "An Act authorizing the County Commissioners of Missoula County to levy Tax for Bridge purposes," approved December second, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section one of an act authorizing the county commissioners of Missoula county to levy a special tax for bridge purposes, approved December second, 1867, be so amended as to read: "The county commissioners of Missoula county shall, at the time other taxes are levied, levy a tax, not less than five nor more than ten mills on the dollar, upon all property in their county liable to taxation for the purpose of completing the payments on the bridge over the Hell Gate river, near the town of Missoula.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved December 22, 1868.

AN ACT authorizing the levying of a Special Tax in Deer Lodge County.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That Granville Stuart, Allen Hardenbrook, and Robert Kelley, of Deer Lodge, are hereby constituted a board of special commissioners for the purpose of levying a special tax, not to exceed four mills on the dollar, upon all property in said

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county, liable to taxation, both real and personal, for the purpose of paying the debt now due and owing by said county, for the construction of the court house in Deer Lodge city.

SEC. 2. The tax provided in the preceding section, shall be levied from the assessment roll of the year A. D. 1869, and it is hereby made the duty of the county treasurer to collect said tax, at the same time and in the same manner as other taxes are collected, and he shall receive the same per centage for such collection.

SEC. 3. The tax collected by the provisions of this act shall be paid out by the county treasurer, upon the order of the said special commissioners, which order shall be signed by at least two members of said board.

SEC. 4. In case any surplus funds remain, after defraying the cost of the construction of the court house, such funds shall be placed to the credit of the county fund.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

AN ACT entitled An Act for the relief of Hot Spring School District, Madison County.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. Whereas, in the apportioning of the School fund of Madison county in November, 1868, Hot Spring district of said county failed to receive its proper portion of said fund; and whereas, it appears that the same is justly due said district, therefore the county superintendent of said county is hereby authorized, and it is hereby made his duty, to allow in the next apportionment for said county in May, 1869, in addition to what is then due said district, the amount which said district should have received in November, 1868, had the proper apportionment been made for said district according to law.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved December 22, 1868.

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AN ACT to repeal an Act entitled "An Act providing for holding regular Terms of the Probate Court of Deer Lodge County at Phillipsburgh in said County."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. The act entitled "An Act providing for holding regular terms of the probate court of Deer Lodge county," approved December 23, A. D. 1867, be and the same is hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved December 16, 1868.

AN ACT to amend an Act entitled "An Act to define the boundary line of Deer Lodge, Beaver Head and Madison Counties," approved December 23, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the northern and north-western boundary of Madison county be, and the same is established as follows, to wit: "Commencing at the Beaver Head rock, on Beaver Head river, thence in a north-westerly direction to the nearest point on Big Hole river; thence up said river to the mouth of Camp creek, thence up Camp creek, and its right hand fork, to its source, thence to the summit of Table mountain; thence in a direct line to Parson's bridge on Jefferson river.

SEC. 2. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 12, 1869.

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AN ACT to amend an Act entitled "An Act to locate the Seat of Government in and for the territory of Montana," passed January 24, 1865:

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the seat of government in and for the territory of Montana, be, and the same is hereby located at the "town of Helena, Lewis and Clark county, Montana territory."

SEC. 2. That the question of locating the seat of government in and for Montana territory, shall be submitted to a vote of the qualified voters of the territory, at the annual election to be holden on the first Monday of August, A. D. 1869.

SEC. 3. If a majority of all the votes cast shall designate the town of Helena as the seat of government, it shall be by proclamation of the governor so declared, or if a majority so voting shall designate the City of Virginia, Madison county, Montana territory, the governor by his proclamation shall so declare it, and the place having a majority of the votes cast, shall be the seat of government.

SEC. 4. The ballot shall be headed, For the seat of government, Montana territory, and the elector shall write or cause to be written or printed, under said caption, the name of the place he desires to vote for.

SEC. 5. That all acts or parts of acts in any way conflicting with the provisions of this act, be and the same are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved January 2, 1869.

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AN ACT to amend and supplementary to an Act entitled "An Act to amend an Act entitled 'An Act to locate the Seat of Government in and for the Territory of Montana,'" approved January 2, 1869.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. If a majority of all the votes cast shall designate the town of Helena as the seat of government of Montana territory, it shall be, by proclamation of the governor of Montana territory, so declared.

SEC. 2. The ballots shall be headed, For seat of government of Montana territory at Helena, or Against seat of government of Montana territory at Helena; and if a majority of all the votes cast in Montana territory designate Helena as the seat of government, then within thirty days after the election, or sooner, if all the votes are returned, it is hereby made the duty of the governor by proclamation to declare Helena the seat of government of Montana territory.

SEC. 3. That the votes cast on the question of the location of the seat of government of Montana territory shall be canvassed in the same manner and by the same persons, and returned in the same form and in the same way, as the votes cast for delegate to Congress.

SEC. 4. That the same penalty shall be incurred for fraudulently voting on the question of location of the seat of government of Montana territory under the provisions of this act, as is incurred for fraudulently voting for any candidate under the election laws of Montana territory.

SEC. 5. That all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT authorizing the repeal of an Act to incorporate the City of Virginia, approved December 30, 1864.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That on the first Monday of January, A. D. 1870, the question of repealing the act incorporating the city of Virginia, approved December 30, 1864, shall be submitted to the qualified voters of said city, and if a majority of the qualified voters be in favor of the repeal of said act, the same shall be from thenceforward null and void, and of no effect, but if a majority of the votes cast at said election be against the repeal of said act, the same shall remain in full force and effect.

SEC. 2. That the election laws now in force in said city under the charter and ordinances thereof, shall govern and control the election upon this question, and the vote canvassed under said election laws, and the result of the same shall be announced by a proclamation of the mayor.

SEC. 3. That until said question of repeal is determined as aforesaid, there shall be no further election for city officers under and by virtue of the charter and ordinances of said city, and that the present city officers shall hold their offices under said charter until the question of repeal be determined as aforesaid, unless vacancies occur by reason of death or otherwise; in case a vacancy shall occur in the office of councilman, the same shall be filled by the mayor; in case any vacancy occur in any other office, the same shall be filled by the mayor and council of said city.

SEC. 4. If the act aforesaid be not repealed at the election provided for by this act, then the same shall continue in force, and all offices shall be filled in the manner and at the time now provided by said charter, and act amendatory thereof, and the ordinances thereunder.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved January 12, 1869.

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AN ACT to authorize the citizens of Jefferson County to change the County Seat of said County.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the legal voters of Jefferson county at the next general election shall have the right to change their county seat, and the place receiving the highest number of legal votes shall thereafter be the county seat of said county.

SEC. 2. That it shall be the duty of all county officers of Jefferson county to remove to and hold their offices at such place as may be chosen, as the county seat of said county, by a vote of the people thereof, within three months after the vote shall have been canvassed and the result declared.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT requiring the County Commissioners of Deer Lodge County to pay D. P. Newcomer for labor performed, and money expended for the benefit of said County.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. The county commissioners of Deer Lodge county are hereby required to pay to D. P. Newcomer, clerk of the second judicial district court, of, in and for the county of Deer Lodge, the sum of five hundred dollars, money expended by said D. P. Newcomer in the purchase of books, etc., for the benefit of said court, and for work and labor performed by said D. P. Newcomer in transcribing the records of said district court in said books.

SEC. 2. That in the event the said county commissioners refuse or neglect to pay the said D. P. Newcomer, as required in section one of this act, the said D. P. Newcomer may bring suit against the said county commissioners for the amount specified in a preceding section of this act.

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SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT to legalize the District Records of Jefferson County.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the county commissioners in and for Jefferson county are hereby authorized and empowered to examine the county district records, as copied into a record book, and indexed F, D, the letter "F" being the order in which the books are lettered, the letter "D" denoting it as a district record; and if a majority of said board of county commissioners shall declare the same as correctly copied, they shall be considered the legal records of said district.

SEC. 2. That these records shall be considered and taken as evidence in any court in this territory.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

AN ACT to change the Name of the Town of Farmington.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the name of the town of Farmington, the county seat of Gallatin county, be and the same is hereby changed to that of Bozeman City.

SEC. 2. All acts or parts of acts conflicting with this act be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 7, 1869.

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AN ACT for the relief of the Masonic Fraternity of Virginia City.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the real property of the masonic fraternity of Virginia City, consisting of the lot, and the building erected thereon, known as the "Masonic Temple," in said city, shall not be subject to taxation either for territorial or county purposes, from and after the date of the passage of this act.

SEC. 2. That the territorial and county treasurer of Madison county be and they are hereby authorized to remit the tax levied upon the real property of said masonic fraternity for the past year, as released by enactment of the legislative assembly of the territory of Montana.

SEC. 3. All acts and parts of acts conflicting with this, be and the same are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved December 31, 1868.

AN ACT to amend an Act entitled "An Act to incorporate the town of Montana, in Beaver Head County, Montana Territory, and to change the name thereof."

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section 1 be amended as follows: That the names of the following persons be added to the names of the corporators in said act: I. A. Brown, C. Bray, C. S. Ream, A. K. Eaton, George Brown, D. H. Hopkins, E. D. Leavitt, A. J. Smith, E. F. Phelps, B. S. Peabody, and W. W. De Lacy.

SEC. 2. That the word "Montana," be stricken out wherever it occurs in said act, and that the word "Argenta" be inserted therein.

SEC. 3. *Provided, however*, That nothing herein contained shall in any wise interfere with, or invalidate any individual rights, interests or titles acquired in said town prior to the passage of this act.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved December 30, 1868.

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AN ACT to repeal an Act to re-enact an Act to incorporate the El Dorado and Diamond City Wagon Road Company, and other purposes, approved December 20, 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the above entitled act is hereby repealed.

SEC. 2. That the act entitled "An Act to incorporate the El Dorado and Diamond City Wagon Road Company," passed April 12, 1866, is hereby repealed; that said road is hereby declared a free road, open for the use and travel of the people of the territory.

SEC. 3. This act shall take effect and be in force from and after ts passage.

Approved December 15, 1868.

AN ACT for the relief of Addison Smith, County Treasurer of Deer Lodge County.

Whereas, under the provisions of an act of the legislative assembly of the territory of Montana, approved November 22, 1867, providing for the funding of the indebtedness of the several counties of Montana territory; and whereas, the county commissioners of Deer Lodge county made an order calling in all the outstanding indebtedness of said county up to the date of said order, to wit: the — day of February, A. D. 1868, and forbidding the treasurer of said county from paying any such indebtedness; and whereas, an action was commenced against said treasurer, by one of the creditors of said county, to compel such payments, and an order of court had in said action, the payment thereof, and that said treasurer has, in defending said action, been subjected to a large expense; and whereas, pursuant to said order of said board of county commissioners, said treasurer has paid a large amount of the warrants of said county, issued subsequent to said order of said board, to wit: the sum of one thousand seven hundred dollars, and is now in danger of being compelled to

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repay said last named sum on said indebtedness, existing prior to said order of said board; therefore

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. The sum of seven hundred dollars is hereby appropriated to Addison Smith, treasurer of Deer Lodge county, out of any money or moneys in the territorial treasury not otherwise appropriated.

SEC. 2. The territorial auditor is hereby directed to draw his warrant on the territorial treasurer, in favor of said Smith, for the said sum of seven hundred dollars.

SEC. 3. The act of said treasurer of said county, pursuant to the order of said board of commissioners, in paying said warrants, issued subsequent to said order, is hereby declared legal and valid.

SEC. 4. The acts of said treasurer of said county, in paying the cash orders of said board of county commissioners, to defray the current expenses of said county, to provide fuel, lights, stationery, etc., for said county, are hereby declared legal and valid.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved January 14, 1869.

AN ACT to provide for the Compensation of William Berkins for Services rendered the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. There shall be, and is hereby appropriated out of the territorial treasury, the sum of seven hundred and thirty-three dollars and eighty-four cents to William Berkins, for money expended and time employed in the pursuit of Charles Williamson and Joseph Powell, of Jefferson county, charged with the crime of grand larceny.

SEC. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum named in the first section of this act, in favor of William

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Berkins, which shall be paid out of any money in the treasury not otherwise appropriated.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

JOINT MEMORIAL to Congress, praying for an Appropriation by the Congress of the United States, for the establishment of a Branch Mint in the Territory of Montana.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

We, your memorialists, the council and house of representatives of the territory of Montana, in legislative assembly convened, would most respectfully but earnestly represent to your honorable body, that during the last five years this country has produced and thrown into the channels of commerce, immense quantities of the precious metals, gradually increasing from year to year, until, in the year 1867, according to the most reliable statistics, gold dust and bullion to the amount of twenty-four millions dollars in coin, have been produced, and it is confidently expected that the yield of the present year, 1868, will greatly exceed that of 1867, and that the cost of transportation of gold dust and bullion in bars, together with the difference in the cost of assaying, between private individuals and the United States, amounts to eight per cent. of the product of our mines, thereby entailing an annual expense on our citizens of upwards of one million and a half of dollars, which would be obviated by the establishment of a branch mint at some convenient point in our territory.

Your memorialists would also most respectfully represent to your honorable body, that, owing to the application of capital and machinery, now being resorted to by our citizens, for the working of our placer mines, the annual yield of gold from this source will not decrease during the next ten years.

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In addition to this, which has been the principal source of our wealth in the past, the development and successful working of our rich and valuable gold and silver bearing lodes, will, in the future, largely increase our yield of the precious metals. There are now in our territory fifty mills for the reduction of ores; most of them are in operation, the balance are in course of erection, or undergoing repairs.

Your memorialists would also most respectfully represent, that besides the large amount of the precious metals contained in our lodes, copper, lead and all the materials used in coining money, are contained in our territory in great abundance.

Your memorialists, therefore, believing that it would be greatly to the advantage of the people of Montana, as well as to the interests of the people of the United States generally, most respectfully request that your honorable body will take such steps as will insure the establishment of a branch mint in the territory of Montana at an early day; and your memorialists will, as in duty bound, ever feel grateful.

Approved December 31, 1868.

JOINT MEMORIAL.

To the Honorable the Senate and House of Representatives in Congress assembled:

Your memorialists, the legislative assembly of the territory of Montana, would most respectfully represent:

First. That the national road leading from Fort Benton to the navigable waters of the Columbia, through neglect, has become impassable for wagons for nearly one hundred and fifty miles, embracing all that portion from French town in Missoula county, across the Cœur d'Alene mountains in Idaho territory; that the line road, surveyed and laid out by Lieut. Mullen, crosses in its ascent of the Cœur d'Alene mountains on the eastern slope, the St. Regis Borgie river some forty-seven times, and that said road, in its ascent of the western slope of said moun-

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tain, crosses the Cœur d'Alene river some forty-five times, and that the bridges, with but few exceptions, have been swept away, rendering these streams entirely impassable during the spring and early summer, at a time when our people are most in need of necessaries, not attainable from the East at that early season of the year.

Second. That it has been estimated by competent engineers, and others acquainted with the cost of constructing mountain roads, that not more than seventy-five thousand dollars ($75,000) would be required if judiciously expended, to put said national wagon road in good condition for vehicles of any and all descriptions.

Third. In the opinion of your memorialists an appropriation of seventy-five thousand dollars, expended under the supervision of some person interested in the welfare of our territory, would be ample for the above purpose, and when the road shall be so opened, the enterprise of our people now settling along the whole line, would be sufficient to keep the same in good repair, without further assistance from the general government for all time to come. Thus, the appropriation named in this memorial to open this so much needed great national highway at an early period, we your memorialists will, as in duty bound, ever pray.

JOINT MEMORIAL, asking the Congress of the United States to Amend the Organic Act of the Territory of Montana.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists, the legislative assembly of the territory of Montana, would most respectfully represent to your honorable body, that, by an act of congress, approved July 20, 1868, biennial sessions of the legislature of Montana are only provided for, and that section four of the organic act of our territory, provides that members of the house of representatives shall hold their office for the term of one year.

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Your memorialists would, therefore, most respectfully request, that section 4 of said organic act be so amended as to accord with provisions of the act of congress above referred to, thereby enabling a future legislature to provide for biennial elections, which would save expenses to the various counties of the territory, as well as to the general industry of the country; and your memorialists will, as in duty bound, ever pray.

Approved January 15, 1869.

To the Honorable Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the fifth legislative assembly of the territory of Montana, respectfully show to your honorable body, that in the latter part of the year eighteen hundred and sixty-six, and in the spring of eighteen hundred and sixty-seven, the war department of the United States incurred a debt in this territory in furnishing subsistence, etc., to a volunteer army called out, pursuant to orders of said department, to repel the savages from the valley of the Gallatin, and protect the citizens of that region.

And your memorialists further represent, that the fourth legislative assembly of the territory of Montana did memorialize your honorable body, asking that this debt might be paid, and caused to be transmitted with said memorial, statements, etc., showing all the particulars thereof.

Your memorialists are not informed whether any action has ever been taken upon said memorial by your honorable body, and avail themselves of this means of requesting your earnest attention to the same, and of asking for an appropriation sufficient to cover said indebtedness at as early a day as possible.

Approved January 11, 1869.

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MEMORIAL to Congress asking for the establishment of a Military Road, and an appropriation therefor.

To the Honorable the Senate and House of Representatives of the United States of America, in Congress assembled:

Your memorialists, the legislative assembly of the territory of Montana, would most earnestly represent, that the interests of the territory would be greatly enhanced, its settlement promoted, and the transportation of military supplies greatly facilitated, by the construction of a military road from the mouth of the Muscleshell, on the Missouri, to the South Fork of the same; thence up the South Fork and across the Belt Range to Fort Ellis on the Gallatin.

Your memorialists most respectfully request that said road may be constructed, and that an appropriation of twenty thousand dollars be made for the construction of said road.

Trusting that you will give the subject of this memorial your earliest and most earnest attention,

Your memorialists will, as in duty bound, ever pray.

Approved December 31, 1868.

COUNCIL JOINT MEMORIAL, No. 2.

To the Honorable Congress of the United States:

Your memorialists, the council and house of the legislative assembly of the territory of Montana, would earnestly petition your honorable bodies composing the congress, for a sufficient sum of money, adequate for a geological survey of this growing territory, of acknowledged mineral wealth, equal to any other portion of the United States possessions, for its medicinal springs, gold and silver deposits, coal, iron, and copper, marble and precious stones, which will greatly add to the riches of scientific research of the United States, by such geological exploration, besides aiding and assisting the indomitable energies of our inhabitants in swelling the great torrent of precious metals, falling into the channels of commerce, as your memorialists will ever petition.

Approved January 15, 1869.

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MEMORIAL praying for a Treaty with the Crow Indians, protecting the Rights of the citizens of Montana in the Valley of the Yellow Stone.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the legislative assembly of the territory of Montana, would earnestly represent, that citizens of the territory of Montana, in the Yellow Stone Valley, have acquired rights under the laws of the United States and the territory of Montana, as pioneers of this mountain region, long before a treaty was made by the government of the United States with the Crow nation of Indians, whereby said portion of territory was set apart as a reservation for these aborigines, and therefore we, your petitioners, the legislative assembly of the territory of Montana, in order to save bloodshed and protect the lawful rights and privileges of that portion of the citizens of this territory, would earnestly ask of the treaty-making power of the United States, that the treaty by which that portion of this territory was assigned as a reservation to the Crow nation be revised so as to protect the rights and privileges of that portion of our inhabitants, as it is a historical fact, that the portion so assigned is neutral Indian territory, and that there is a sufficient Indian territory belonging to said Crow nation, other than the territory mentioned.

Approved January 11, 1869.

JOINT MEMORIAL to the Congress of the United States, praying for the Removal of the Flat Head Indians from the Bitter Root Valley in the County of Missoula to their reservation on the Iocko.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled:

We, your memorialists, the legislative assembly of the territory of Montana, would respectfully represent, that all that portion of Missoula county known as the Bitter Root Valley, contains several hundreds of industrious white settlers, who are engaged in agri-

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culture, manufacturing and mining; that from year to year they have made valuable and substantial improvements, until such improvements exceed in value the property of all other portions of said county; that there are at this time about three hundred and fifty of the Flat Head tribe of Indians residing in said valley; that their habits and customs are so different from those of the whites, it is found to be impossible for the two races to live on amicable terms; therefore, we, your memorialists, would respectfully memorialize your honorable body, that a commissioner be appointed to treat with said Indians for their removal to the reservation provided for them in the Iocko Valley.

Approved January 11, 1869.

HOUSE JOINT MEMORIAL. No. 7.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists, the council and house of representatives of the territory of Montana, would most respectfully represent to your honorable body, the great necessity of the construction of a government military road, from some point on the Union Pacific Railroad, at or near Box Elder, in Utah territory, to Helena City, in Montana territory.

Your memorialists would most earnestly represent, that the construction of the said road would be of great public benefit to all the people of the territories of Utah, Montana and Idaho. That it would be the most convenient road as an outlet to the railroad for all the towns in our territory, as it would necessarily run through the following towns in making a direct course to and from the point mentioned, via Bannack City, Argenta, Silver Bow, Deer Lodge and Blackfoot cities.

Your memorialists would further represent, that owing to the early completion of the Union Pacific Railroad, that the people of the territory will receive all their supplies from the East and West by the said road, and that there is now but toll roads by

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which they can travel in going to and from said railroad, and that all of said roads are circuitous and indirect, and charge an enormous and extravagant rate of toll, and that there is no road now open that is as short, or that can be made as convenient to the people of this territory, as the one herein represented to your honorable body.

Your memorialists would humbly urge upon your honorable body immediate action upon the subject set forth in this memorial, as a measure of the greatest importance to the development of the mineral and agricultural resources of this country, and as an actual necessity to the people thereof.

As in duty bound, will ever pray, etc.

Approved January 14, 1869.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists, the legislative assembly of the territory of Montana, respectfully represent, that there has been organized in this territory, a society known as the Historical Society of the territory of Montana; that the society, being organized for the purpose of preserving such historical incidents as are worthy of preservation, and generally for the advancement of literature in this territory; that the said society is greatly in need of means for the purpose of maintaining its organization, and the carrying out of the beneficial designs of its inception.

Your memorialists, understanding it to be the custom of the general government to foster such institutions in the several territories, would respectfully request your honorable body to appropriate for the relief of said society the sum of three thousand dollars.

And your memorialists will ever pray, etc.

Approved January 15, 1869.

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HOUSE JOINT RESOLUTION.

Resolved by the House, the Council concurring, That the sum of two thousand dollars be and the same is hereby appropriated from the territorial treasury, out of any money not otherwise appropriated, to build a suitable magazine and arsenal, for the territorial arms now in the city of Helena. That the governor is hereby authorized to contract for the building of the same, in or near Helena, provided no expense incurred in the matter whatever shall exceed the foregoing appropriation. The territorial auditor is hereby authorized to draw his warrants on the treasurer for the above amount, whenever the governor shall certify to him that the said arsenal is constructed. That the governor be authorized to procure the services of a suitable person in Virginia, and of one in Helena, to take charge of, and keep in order the arms and ammunition at those places, provided that neither of said parties shall receive more than four hundred dollars per annum for each service; and the auditor is hereby directed to draw his warrants in favor of such parties, quarterly, to the extent of four hundred dollars each, per annum, upon the certificate of the governor that the services required in this act have been performed.

Approved January 15, 1869.

SUBSTITUTE FOR HOUSE JOINT RESOLUTION, No. 5.

Resolved by the House, the Council concurring, That the territorial auditor be instructed to draw a warrant on the territorial treasurer for the sum of fifty dollars in favor of William Y. Lovell, for services rendered in copying revenue law, and in taking deposition of Messrs. Cummings and Carpenter before the committee on ways and means.

Approved January 14, 1869.

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HOUSE JOINT RESOLUTION, No. 11.

Resolved by the House, the Council concurring, That the secretary of the territory, when he has the laws of this session published, be and he is hereby authorized to cause the printed copies thereof to be published free of all errors in punctuation, orthography and grammatical construction, provided that the corrections made do not interfere with the legal construction of said laws.

Approved January 15, 1869.

HOUSE JOINT RESOLUTION, No. 9.

Resolved by the House, the Council concurring, That the house and council adjourn this day at 4 o'clock P. M. *sine die.*

Approved January 15, 1869.

COUNCIL JOINT RESOLUTION, No. 10.

Resolved by the Council, the House concurring, That the territorial auditor be required to issue his warrant in favor of Samuel B. Green for the sum of forty-eight dollars for three days services as assistant enrolling clerk of the council.

Approved January 15, 1869.

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Resolved by the House, the Council concurring, That there be and there is hereby appropriated out of the territorial treasury, from any moneys not otherwise appropriated, the following amounts to the following named persons, for services in assisting the enrolling and engrossing clerks of the house of representatives: To I. Ostreicher sixty dollars, to J. Robinson twelve dollars, to E. Stark twelve dollars, to J. Murphy sixty dollars; and the auditor is hereby directed to draw his warrants on the treasurer for the above amounts. The auditor is further directed to draw his warrants on the treasurer for the following amounts: To A. H. Barrett and R. E. Arick, C. C. Menaugh and William R. Kirkwood, for one hundred dollars each for night service, in writing up the journals of the house.

Approved January 15, 1869.

HOUSE JOINT RESOLUTION, No. 3.

Resolved by the House, the Council concurring, That there shall be appropriated out of the treasury of this territory the sum of five hundred and fifty-five $\frac{50}{100}$ dollars to Thomas B. Wade, for moneys expended and services rendered in selecting site, preparing deed, copying plot, and surveying ground, for the location of the territorial penitentiary, at Deer Lodge City, Montana territory, in obedience to the governor's instructions of February 19, 1868.

Approved January 13, 1869.

Resolved by the Legislative Council of the Territory of Montana, the House concurring, That the sum of three hundred dollars be and the same is hereby appropriated for the payment of a demand yet due to John How for safe purchased for the use of the terri-

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tory, and the auditor of the territory is hereby authorized and instructed to draw his warrant on the territorial treasurer, for said sum of three hundred dollars, and the said treasurer is hereby instructed to set aside the said sum, from any money which may come into the treasury, and pay said warrant therefrom.

Approved January 12, 1869.

COUNCIL JOINT RESOLUTION, No. 4.

Resolved by the Council of the Legislative Assembly of the Territory of Montana, the House concurring, That the auditor be and he is hereby authorized to draw his warrant upon the territorial treasurer in favor of the following persons, to wit: two hundred and fifty-two dollars to Wood and Reynolds for storing territorial ordnance and ordnance stores from April 4, 1868, to January 4, 1869; two hundred and fifty dollars to Charles Curtis for taking care of and keeping in good condition territorial ordnance and ordnance stores; one hundred and fifty dollars to the Rev. L. Van Gorp, for rent of house for two months for the storage of territorial arms and ammunition; one hundred and fifty dollars to Neil Howie, for money expended for oil, emery, drayage, stove and pipe, etc.; ninety-nine dollars to R. S. Price, for moving arms and ammunition and for carpenter's work. Said amounts are hereby appropriated out of any money in the treasury not otherwise appropriated.

Approved January 14, 1869.

JOINT RESOLUTION, No. 7.

Resolved by the Legislative Assembly of the Territory of Montana, That the territorial auditor be instructed to draw a warrant on the territorial treasurer for the sum of five hundred and fifty dollars in favor of Davis & Thoroughman for legal services rendered the territory, which sum the auditor recommends be allowed.

Approved January 12, 1869.

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COUNCIL JOINT RESOLUTION, No. 9.

Be it resolved by the Legislative Assembly of Montana Territory, That the territorial auditor is hereby authorized and directed to draw warrants on the territorial treasurer of Montana for the sum of two hundred and forty dollars, out of any moneys not otherwise appropriated; two hundred and forty dollars in favor of Isaac Ostreicher, and two hundred and forty dollars in favor of James Murphy, for services rendered as clerks, for joint committee appointed to examine the territorial treasurer and auditor's books.

Approved January 15, 1869.

COUNCIL JOINT RESOLUTION, No. 11.

Resolved by the Council, the House concurring, That the territorial auditor be requested to issue his warrant in favor of R. E. Haislip for the sum of two hundred dollars, for services rendered as post master.

Approved January 15, 1869.

COUNCIL JOINT RESOLUTION, No. 13.

Resolved by the Council, the House concurring, That the secretary be requested to furnish to the members and attaches of both houses of the assembly a copy of the laws and journal passed at this session as soon as convenient after printed.

Approved January 15, 1869.

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